

California State Parks Response

#1-1 Thank you, no response necessary

#1-2 As discussed in Sections 2.1.3.2, 3.3.1.3 & 3.3.1.8, California State Parks will strive to coordinate planning and operational issues with the Cleveland National Forest for the myriad of issues that affect both the state and federal jurisdictions. We note that your planning efforts, like the California State Park planning efforts are programmatic in nature and will require detailed evaluation as specific proposals are finalized or implemented.

Comment Letter 1 – US Forest Service



United States
Department of
Agriculture

Forest
Service

Cleveland National Forest
SO

10845 Rancho Bernardo Rd.
Suite 200
San Diego, CA 92127-2107
(858) 673-6180
(858) 673-6192 FAX
(800) 735-2922 CRS

File Code: 1920-1-5

Date: JUL 29 2004

Environmental Coordinator
Southern Service Center
California Department of Parks & Recreation
8885 Rio San Diego Drive, Suite 270
San Diego, CA 92108

Dear Sir or Madam:

1-1 Thank you for the opportunity to review the recirculating draft Preliminary General Plan/Draft Environmental Impact Report for Anza-Borrego Desert State Park.

The Cleveland National Forest has no comments at this time (reference our March 3, 2003, comments to your predecessor document).

1-2 The National Forests in southern California (including the Cleveland and San Bernardino, which share common boundaries with the Park) are currently updating our Land and Resources Management Plans. These Plans are programmatic in nature and reflect proposed land use designations similar to your draft Plan, as well as goals and implementation standards. Our draft Plans and Draft Environmental Impact Statement are currently undergoing public review, with comments due by August 11, 2004. Further information on our Plan (including electronic access to the draft materials and source references) can be obtained at <http://www.fs.fed.us/r5/scfpr> or by phoning toll-free 866-252-8846.

Thank you again for the opportunity to comment on your draft document.

Sincerely,

BERNICE A. BIGELOW
Resource/Planning Staff Officer



#2-1 California State Parks (CSP) respectfully disagrees that the approval of the ABDSP General Plan would require legislative review. PRC Section 5002.2 states that “(T)he General Plan for a unit shall be submitted by the Department to The State Park and Recreation Commission for approval.” CSP is not aware of any issues that require legislative review for Plan approval.

#2-2 Because an opinion from the Legislative Counsel is confidential to the legislative member who requested it, unless that member has waived the confidentiality, CSP is not able to respond specifically to this opinion. However, CSP respectfully disagrees that there are violations of the law with respect to the closure of Coyote Canyon. The Coyote Canyon trail was closed to motorized vehicles in 1995. Implementation of the General Plan does not create a new recreational impact. Coyote Canyon Road was a jeep trail that was established sometime after the end of World War II as four-wheel-drive jeeps became popular. The trail came into being through recreational off-road use and was never established as a state or county road or highway.

A state highway must be established pursuant to constitutional or legislative authorization (Streets and Highways Code [S&HC] § 24). We find no statutory or constitutional provision that establishes the trail known as Coyote Canyon Road as a road in the State Highway System. In order for a road to be established as a county or other local road through a state park, it must be approved by State Parks (S&HC § 122). There has been no approval by State Parks of any road through Coyote Canyon. Although groups in Riverside and Los Angeles County had proposed such a road in the 1950s, there is no evidence that such a road was established by the County of San Diego or any other governmental agency as is implied.

Furthermore, no road was ever established pursuant to the provisions of Revised Statute 2477 (RS 2477). The burden is on the person claiming the road to prove that a road was established. Any doubts as to the scope of any claimed easement or road must be resolved in favor of the government (*Adams v. US* (1993) 3 F.3d 1254).

The Coyote Canyon lands were dedicated to state park use in 1933. Based on our research, no evidence exists that a road existed prior to that time, and no evidence has been produced to that effect. The evidence that may exist indicates that the trail was developed following World War II as a recreational four-wheel drive trail. This is simply insufficient to support a claim of easement by way of RS 2477 (*Humboldt County v. United States* (1982) 684 F.2d 1276).

Since no state highway or local road has been established, no road exists which may or is required to be relinquished. Thus, there can be and is no violation of the provisions for road relinquishment cited in your letter.

Public Resources Code §5001.8 establishes the statutory requirements for motorized vehicle use. Except for approved local paved roads and roads in the State Highway System, the Department must designate and approve trails and other roads for motorized use. Pursuant to this statutory provision and direction, the Department is mandated and well within its legal authority and mission to close the jeep trail through Coyote Canyon in order to properly protect and preserve the fragile and sensitive natural resources in the canyon.

It is not clear that the County of San Diego ever established jurisdiction for a roadway in Coyote Canyon. It should also be noted that the majority of the section of the road that is closed to vehicles is located in Riverside County.

Comment Letter 2 – Bill Morrow

September 7, 2004

Secretary Mike Chrisman
Resources Agency
1416 9th Street, #1311
Sacramento, CA 95814

Director Ruth Coleman
Department of Parks and Recreation
1416 9th Street, #1405
Sacramento, CA 94814

RE: Request to postpone ABDSP Preliminary General Plan/Draft EIR (Plan) process

Dear Secretary Chrisman and Director Coleman:

2-1 I understand that the comment period for the above Plan was extended by two weeks to a deadline of September 13, 2004. I have had staff review portions of the Plan and also monitor draft comments from various organizations. These comments already raise serious questions that may demand legislative review and not just departmental review before the Plan can be amended and approved. Some of the concerns are as follows:

2-2 The Legislative Counsel issued an opinion on April 20, 2004 that specifically points out violations of the law with regard to the closure of Coyote Canyon Road to all access.

Section 5152 of the Public Resources Code states that “the Board of Supervisors or governing body of any county or city within which any park forming a part of the State park system is established, may relinquish any road, highway, or trail or portion thereof, or right of way...” This is not true in the case of Coyote Canyon Road in Anza-Borrego Desert State Park. The County of San Diego never relinquished jurisdiction.

Sections 122 and 123 of the Streets and Highways Code provide that:

#2-3 CSP respectfully disagrees. The General Plan addresses this issue in Sections 3.2.4.5 (Page 3-15) and 4.5.3.7. Additionally, to summarize the January 1999 Alternative Routes of Travel, Coyote Canyon, ABDSP, Feasibility Study prepared by Dudek and Associates, , all possible alternatives for road re-alignment were researched. While many routes were feasible from an engineering perspective, all routes were found to be infeasible by the independent consultants. Wilderness designation, archeological sites, Federally Endangered bighorn critical habitat, least Bell's vireo nesting habitat, and riparian zones precluded road construction in the study area.

The Lower Willows road re-alignment did not involve building the roadway in previously designated State Wilderness Area. The Bypass Road was approved in a canyon designated as "State Park." The State Park & Recreation Commission approved this route through "State Park," then upon completion of the road, the surrounding lands were thereby designated as "State Wilderness" in order to bring about a higher level of protection to the valuable riparian zone of Lower Willows. In other words, existing Wilderness boundaries were amended to expand existing Wilderness, not to accommodate construction of the Bypass Road as implied in the comment letter.

#2-4 CSP respectfully disagrees. *The Coyote Canyon PUP* (Appendix 9.6) was found to be compliant with CEQA and, as a Negative Declaration, was subject to public review at that time. *The Assessment of Ecological Conditions in Coyote Canyon, Anza-Borrego Desert State Park, an Assessment of the Coyote Canyon Public Use Plan (2002)* (Appendix 9.7) was prepared by UC Davis scientists, subject to acceptable scientific method (Please also see Response #2-2). The Visitor Use survey was conducted by the University of Montana and many of the individuals interviewed in Coyote Canyon had driven their vehicles to the site.

#2-5 CSP respectfully disagrees that the 1995 Negative Declaration is inadequate. Further, the legal challenge to the 1995 Negative Declaration and 1996 closing of the Middle Willows section of the Coyote Canyon jeep trail was denied. The Statute of Limitations to this action under CEQA has expired.

“122. Whenever jurisdiction over any highway within a State park has been relinquished to the authority charged by law with the management and control of such parks... (Department of Transportation) may construct, improve, or maintain such highway...”

“123. The provisions of section 122 shall neither affect nor limit the (Department of Transportation’s) authority, possession or control of any State highway even though any portion of such State highway is located within a State park.”

2-2
(cont'd)

The Department of Parks and Recreation is given no authority to close or vacate with respect to those highways that cross state park land unless a city or county relinquishes that authority... Additionally, even if the Department were authorized... highways may be closed or vacated only for specific reasons that do not include environmental concerns (Sections 124 and 942.5, and Pt. 3 (commencing with Section 8300), Div. 9, S. & H.C.; Sec. 21101, Veh. C.)

2-3

I understand that there are differing perspectives regarding this opinion. I believe that due to the history of use of the route through Coyote Canyon Revised Statute 2477 does apply in this situation. My constituents and I feel that the rule of law has not been followed by the Department throughout the history of access through Coyote Canyon. The assessment of the Canyon by Dudek and Associates regarding a possible realignment of motorized access through the Canyon is flawed. Dudek personnel were misinformed about the Canyon and did not investigate all potential alternate routes. The Lower Willows route in the same Canyon was realigned successfully in 1987. Resolution 8-86 passed by the Park and Recreation Commission on January 16, 1986 validated a new alignment. As a result the wilderness boundaries were amended to accommodate the realignment.

2-4

The Coyote Canyon Public Use Plan (1995) and the Assessment of Ecological Conditions in Coyote Canyon, Anza-Borrego Desert State Park, an Assessment of the Coyote Canyon Public Use Plan (2002) are fatally flawed. The determination to close a 3.1 mile section of the Canyon is not supported by the Legislative Opinion cited above. The conclusions enumerated in the Assessment are based upon flawed data that was not collected according to sound scientific measures such as, a clearly established baseline of data to measure against, repeatability of data collection, and use of standard methodology in data collection. Additionally, the visitor surveys conducted by Park staff are fatally flawed in that they were not conducted until after the Canyon had been closed to OHV traffic therefore skewing the results reported.

2-5

On careful review of the Negative Declaration signed by then Director of the Department of Parks and Recreation, Donald W. Murphy, on October 10, 1995, that was used to close the 3.1 mile section of the Coyote Canyon route, closure of this section does not meet the criteria for the issuance of a Negative Declaration, as much of the data used to make this land use decision is unpublished, not peer-reviewed and/or lacks quantitative data.

#2-6CSP acknowledges that visitor quantity and “carrying capacity” are related through potential adverse environmental effects that may occur with greater numbers of visitors. Carrying capacity refers not to total numbers visitors but to the ability of particular areas to absorb the effects of visitor use. The more fragile and sensitive an area, the lower its’ carrying capacity. Carrying capacity can also be increased by the redirection of recreational uses to appropriate locations or types of uses. Although impossible to track exact visitor quantity, the visitation numbers are based on Ranger Reports, fee collection stations, visitor center patrons, and other staff/volunteer interaction with park visitors. In theory, it is possible that these numbers are lower than is realistic, due to the vastness of the park & visitors who might visit a favorite remote location without interaction with staff or volunteers during their Park visit.

#2-7 CSP extended the comment period by 2 weeks for a total review period of 60 days. The comment period was not officially extended beyond September 13, 2004.

Comment Letter 2 – Bill Morrow

2-6 | The Preliminary General Plan/Draft Environmental Impact Report discusses concerns regarding the “carrying capacity” of the Park. It quotes an average Park visitor count of 595,424 Park patrons annually. I strongly question these numbers. Many members of the public have requested how these numbers have been determined. There has not, to date, been an adequate disclosure of the methods used to collect visitation numbers.

2-7 | I strongly encourage an extension of the comment period for at least another thirty days so all supporting documentations addressed in the Preliminary General Plan/Draft Environmental Impact Report can be reviewed.

Please respond.

Thank you.

Sincerely,

BILL MORROW

WPM/tkt

#2A-1 Comment letters for the previous (2003) circulation of the Preliminary General Plan/DEIR were summarized for inclusion in the July 2004 circulation for public review. Unless specifically stated, the letter was determined to have no opinion, regardless of the overall sentiment of the letter. However, each letter was available for public review in full, which allowed both the public and decision-makers full access to all public comment. Many letters with substantive comments did not list an opinion in favor or against the project for the 2003 circulation. Perhaps because of the summary in Section 4.6, the majority of the letters submitted for review during the July 2004 circulation, clearly stated a position either in favor of or opposed to the General Plan. These letters are summarized in Section 4.6 of the FEIR in the Comment Letter Matrix. CSP respectfully disagrees that the July 2004 ABDSP Preliminary General Plan should be substantially revised because the Plan provides recreational access while protecting the Park's resources.

#2A-2 CSP recognizes that you fully support the combined CARE letter (CL 15) but respectfully disagrees that the General Plan is fatally flawed or creates serious inequities. The General Plan process included numerous public meetings and stakeholder meetings. There are many comment letters in support of the General Plan's approval.

SACRAMENTO OFFICE

STATE CAPITOL
SACRAMENTO, CA 95814-4900
(916) 445-3731
(916) 446-7382 FAX

DISTRICT OFFICES

27126-A PASEO ESPADA
SUITE 1621
SAN JUAN CAPISTRANO,
CA 92675
(949) 489-9838
(949) 489-8354 FAX

2755 JEFFERSON STREET
SUITE 101
CARLSBAD, CA 92008
(760) 434-7930
(760) 434-8223 FAX

WWW.SENATE.CA.GOV/MORROW/

WADE C. TEASDALE
CHIEF OF STAFF

California State Senate

SENATOR
BILL MORROW

THIRTY-EIGHTH SENATORIAL DISTRICT



COMMITTEES:

VETERANS AFFAIRS
CHAIR
ENERGY, UTILITIES
AND COMMUNICATIONS
(VICE CHAIR)
JUDICIARY
(VICE CHAIR)

GOVERNMENTAL ORGANIZATION
INSURANCE
TRANSPORTATION

SELECT COMMITTEES:
COLLEGE & UNIVERSITY
ADMISSIONS AND OUTREACH
DENSE & AEROSPACE INDUSTRY
MOBILE & MANUFACTURED HOMES

SUBCOMMITTEES
ADMINISTRATION OF JUSTICE
HIGH SPEED RAIL
NEW TECHNOLOGIES

JOINT COMMITTEES
LEGISLATIVE AUDIT

September 10, 2004

Ms. Tina Robinson
Environmental Coordinator
Southern Service Center
California State Parks
8885 Rio San Diego Drive, Suite 270
San Diego, CA 92108

RE: Comments on the ABDSP Preliminary General Plan and Draft EIR (the Plan)

Dear Ms. Robinson:

2A-1 | It has come to my attention that on page 4-22 of the Plan that you have me listed as having No Opinion. While previous to now I have not submitted an opinion, I do certainly have one! In fact, it is my very strong opinion that the Plan as brought forth in earlier and current draft is unacceptable and needs to go back to the drawing board.

2A-2 | Shortly, you will be receiving Comments from California Off-Road Vehicle Association, San Diego Off-Road Coalition, Off-Road Business Association, American Motorcycle Association - District 37, Americans for Forest Access, Mountain Coalition, The Warrior's Society, Public Lands for the People, Inc., High Desert Multiple Use Coalition, Citizens Against Recreational Eviction – USA, Backcountry Horsemen of California – Borrego Springs Unit and Caballeros del Sol Unit, Coachella Valley Trails Council, Friends of the Rubicon, AMA District 37 – Dual Sport, Jeeping Jeepers Jeep Club Inc. etc., which I have also reviewed and which raise serious legal issues with the Plan and process as well bringing to light glaring inequities throughout. I concur with these comments.

Thank you.

Sincerely,


BILL MORROW

WPM/tkt

#3-1 Thank you for your support.

#3-2 Sentence 4 of Paragraph 2 in Section 3.3.1.4 will be changed in the General Plan to read “The Native American Heritage Commission assists in the identification and protection of sacred sites” per your request. California State Parks (CSP) meant to convey the idea that the Native American Heritage Commission (NAHC) maintains a list of sacred sites from throughout California, and provides that information upon request to landowners and other individuals, as appropriate. Thank you for the clarification of the duties carried out by the NAHC.

#3-3 The goals and guidelines in the GP do not specifically address the confidential nature of locations for archaeological sites, sacred sites, traditional cultural places, and other sensitive cultural properties. However, a law in the California Government Code already mandates that the locations of historical resources and other cultural properties must be kept confidential. CSP, as a matter of standard procedure, maintains the confidentiality of such records by limiting distribution of these data to State Parks cultural specialists and other departmental personnel, as necessary to provide adequate protection to sites. Policies on the confidentiality of site location information are also specified in the *California State Parks Cultural Resources Management Handbook* (2001), a manual used by all cultural resource specialists.

#3-4 Policies outlined in the *CSP Resource Management Directives* (1979) and the *California State Parks Cultural Resources Management Handbook* already direct park staff to consult with local Native American communities and to seek their advice on land management decisions.

#3-5 Please note “Primary Theme 4” as well as its guidelines and sub-guidelines located in section 3 under *Interpretation*.

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-4082
Fax (916) 657-5390
Web Site www.nahc.ca.gov



September 10, 2004

Ms. Tina Robinson
Environmental Coordinator
Southern Service Center
California State Parks
8885 Rio San Diego Drive, Suite 270
San Diego, Ca 92108

VIA Fax: (619) 220-5400

Re: Anza Borrego Desert State Park Preliminary General Plan/DEIR
SCH# 2002021060

Dear Ms. Robinson:

3-1 Thank you for the opportunity to review the Anza Borrego Desert State Park Preliminary General Plan/DEIR. The Native American Heritage Commission generally approves the department's plan in concept, and concurs with the Department's focus on protection of the park's sensitive cultural resources.

Additionally, the NAHC would like to make the following suggestions and/or comments.

3-2 > 3.3.1.4 - Cultural Resources -- Sentence 4 of Paragraph 2 states that "The Native American Heritage Commission also provides information about sacred sites." This statement is erroneous due to the fact that the information on our Sacred Lands File is confidential. The statement should read: "The Native American Heritage Commission assists in the identification and protection of sacred sites."

3-3 > Goal 3 - The guidelines outlined for cultural resource protection, stabilization, and preservation do not address the confidentiality issues surrounding many of the Native American sacred sites and archaeological features within the park. Provisions to maintain confidentiality should be specifically noted when planning for site inventories, research, site conservation, interpretation, and stewardship.

3-4 > Guideline 3f should focus on partnering with local Native American communities for consultation and advice on management strategies, rather than for the dissemination of information on cultural resources.

3-5 > 3.3.1.5 - Interpretation -- This section outlines the Department's goals for interpretive programs at Anza Borrego, but fails to propose partnering with local Native Americans for this purpose.

#3-6 CSP *Resource Management Directives* and the *California State Parks Cultural Resources Management Handbook* outline policies concerning Native American consultation. These policies include the determination of the most likely descendants and the procedures for gaining their participation on projects and their advice about collections issues such as repatriation. The advice of local Native Americans will be solicited when interpreting collections.

#3-7 Mitigation CR 1 will be revised to include the presence of, or a request for, a Native American monitor for CSP actions with a high potential of affecting Native American sites or remains. This wording will be inserted following the third sentence – "...implemented, and a Native American monitor shall be requested."

#3-8 The list of local Native Americans appropriate to Anza-Borrego Desert SP® was previously obtained from NAHC by CSP staff. A letter was mailed to each group on the NAHC list. CSP has met with a local Kwaaymii representative on several occasions, as well as, other Native American individuals, concerning management decisions for the park. Both a Kwaaymii and a Cahuilla representative were hired during the Resource Inventory phase by CSP to provide information about their respective family histories, in particular, as it relates to Native American uses of the park.

- 3-6 | > 3.3.1.6 - Collections -- Similarly, this section fails to include the involvement of Native Americans in the interpretation of collections.

- 3-7 | > Environmental Analysis 4.5.3.5 - Cultural Resources -- Mitigation CR1 should also require the presence of a Native American monitor for all actions with the potential to disturb cultural resources.

- 3-8 | Enclosed is a list of Native Americans individuals/organizations that may wish to provide input on management issues discussed in the Anza Borrego Desert State Park Preliminary General Plan/DEIR. The Commission makes no recommendation of a single individual or group over another. Please contact all those listed; if they cannot supply you with specific information, they may be able to recommend others with specific knowledge. By contacting all those listed, the Department will be better able to respond to claims of failure to consult with the appropriate tribe or group. If you have not received a response within two weeks' time, we recommend that you follow-up with a telephone call to make sure that the information was received.

Feel free to contact the NAHC if you have any questions regarding these comments.

Sincerely,



Rob Wood
Environmental Scientist III



Carol Gaubatz
Program Analyst

Cc: State Clearinghouse

#4-1 California State Parks (CSP) will coordinate with the County for potential impacts due to implementation of the ADBSP General Plan/EIR to the three roads you have identified (S1, S2, and S22) as County Roads. We respectfully disagree that the extent of activities was not addressed in the ADBSP General Plan/EIR. Please refer to Table 5.8, the Reasonable Projection of Development which addresses the acreage of each management zone as well as the projected type, mileage or square footage of development under each zone. This would be consistent with the approach normally used in local general plans.

Comment Letter 4 – County of San Diego



GARY L. PRYOR
DIRECTOR

County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017

SAN MARCOS OFFICE
338 VIA VERA CRUZ - SUITE 201
SAN MARCOS, CA. 92069-2620
(760) 471-0730

EL CAJON OFFICE
200 EAST MAIN ST. - SIXTH FLOOR
EL CAJON, CA 92020-3912
(619) 441-4030

August 27, 2004

Environmental Coordinator
Southern Service Center
California Department of Parks and Recreation
8885 Rio San Diego Drive
San Diego, CA 92108

Re: Comments on the Preliminary General Plan/ Draft Environmental Impact Report for the Anza-Borrego State Park.

The County of San Diego has reviewed the Preliminary General Plan/ Draft Environmental Impact Report for the Anza-Borrego State Park dated July 2004 ("General Plan/ DEIR") and appreciates this opportunity to comment. County staff's comments regarding the contents and adequacy of the documents follow below.

The General Plan/ DEIR is a combined document under CEQA §15166. The focus of the document is to provide a general project description and designation of land classifications, known as "Zones," within the park, which provide conceptual parameters for future activities and development. As a first tier environmental document, the General Plan/ DEIR provides only a plan level analysis, a broad perception of potential environmental impacts may occur as a result of implementation of the General Plan. The General Plan/ DEIR specifically states that subsequent environmental review, in accordance with CEQA, will be required as specific facilities and activities are identified in accordance with each land classification of the plan.

4-1 | The County of San Diego's focus of its review of the General Plan/ DEIR is on potential impacts to three (3) county roads that traverse the park (SS1, S2 and S22), as well as to the communities within the jurisdiction of the County that are located within the boundaries of, or adjacent to Anza-Borrego State Park. These communities include Borrego Springs, Ocotillo Wells, Scissor Crossings, San Ignacio and Ranchita. Although the General Plan/ DEIR provides general parameters for types of activities and facilities permissible within each "Zone" the document fails to discuss extent of activities or new facilities that may be allowable in each "Zone." The County's specific comments are as follows:

#4-2 CSP agrees that adding the language to the General Plan that includes limiting the bulk, scale, and intensity of land uses within the FUZ I is compatible with the Park vision and will add this condition to the final General Plan. CSP designs park facilities with a team of professional architects, engineers and landscape architects with the intention of matching the facilities to the users needs and the park ambiance. Please refer to Goals Operations 1 in Section 3.3.1.11. It should be noted that the FUZ I management zone is established in the General Plan to guide the most intensive development to areas where such development already exists or may exist without adversely affecting park resources. The development of park facilities within the FUZ I is not intended to fill the entire zone with facilities but allow for the location of appropriate park facilities within the zone. Therefore the bulk, scale and intensity of land uses will be limited to avoid an urban scale that would be incompatible with the Park. CSP does not agree however, that the potential increase in noise, aesthetics, traffic, etc. associated with approval of the General Plan, would have potentially significant effects to adjacent land uses. Please see Table 5.8 for a clear understanding of the relative changes in scope and scale for the development proposed under the General Plan.

#4-3 Please see Response #4-2. Similar language will be incorporated into the Information /Entrance Zone for the Final General Plan.

#4-4 Please refer to Response # 4-1. The traffic analysis in Section 4.5.4.3 states that the highways within the Park are rural roads that operate at high levels of service except for weekend use during the Winter/Spring season. During the Winter/Spring season, many visitors are attracted by wildflowers within and near the Park as well as other recreational activities outside the Park in Borrego Springs, the Octotillo Wells State Vehicular Recreation Area, and other nearby areas. Due to the low number of trips generated by the projected Park development shown in Table 5.8, it is unlikely that approval of the General Plan will have any appreciable effect on the levels of service over existing conditions. An increase in trips by Park users is expected whether or not the General Plan is approved and will be due to the regional population increase as more people seek to recreate in the Park and adjacent areas. Please note that park acquisitions, such as the Lucky 5 Ranch and Vallecito Ranch, remove land from potential development and become land primarily designated as low-intensity park uses under the ABDSP General Plan/EIR. This action reduces the projected load on the highways in the County's Circulation Element.

#4-5 The ABDSP General Plan/EIR identifies hazards as an existing condition in Section 2.2.1.5 and specifically flash floods. Hydrology is also addressed in Sections 3.3.1.2 and 4.5.3.2. A Guideline – Hydrology 1c: shall be added and incorporated into Mitigation WR-1. The guideline shall state: *“Planning for future site development and infrastructure will incorporate and avoid natural flood paths wherever feasible.”* Additionally, as site-specific plans are developed, full CEQA compliance will ensure that hazards associated with potential flooding are addressed. Focused Use Zone I is a management zone that is located in several areas of the park aside from the Borrego Springs/Palm Canyon area.

- 4-2
1. Portions of the proposed land designation “Focused- Use Zone I” is adjacent to the communities of Borrego Springs and Ocotillo Wells, both within County of San Diego jurisdiction. Allowable uses in this “Zone” under the General Plan include new facilities for visitor amenities. Development within this “Zone” has the potential to have significant effects on the community of Borrego Springs and Ocotillo Wells in the form of increased noise, impacts to aesthetics and visual quality, increased traffic, degradation of water quality and decrease in water quantity, as well as potential incompatibility with adjacent land uses. It is noted that future activities and implementation of the plan will require additional environmental review. The General Plan/ DEIR states that the new facilities will “blend in with regional characteristics of the land, causing the least amount of impact.” Despite this statement, the County recommends that restrictive language be included in the General Plan/ DEIR, at this time, to limit the bulk, scale, and intensity of land uses within this “Zone,” appropriate to the surroundings.
- 4-3
2. Portions of the land designation “Information/ Entrance Zone” is adjacent to Ranchita, a community within the jurisdiction of the County of San Diego. Allowable uses in this “Zone” under the General Plan include stopping or parking areas for park orientation purposes. Development within this “Zone” has the potential to have significant effects on the community of Ranchita in the form of increased noise, impacts to aesthetics and visual quality, increased traffic, degradation of water quality and decrease in quantity, as well as potential incompatibility with adjacent land uses. It is noted that future activities and implementation of the plan will require additional environmental review; however, the County recommends that restrictive language be included in the General Plan/ DEIR, at this time, to limit the bulk, scale, and intensity of land uses within this “Zone,” appropriate to the surroundings.
- 4-4
3. Implementation of the General Plan may result in increased trips on County roads that traverse the park. It is recognized that the General Plan/ DEIR provides environmental analysis on a program or plan level; however, there is no discussion of the extent of growth that is anticipated by the General Plan. Absent a more comprehensive project description it is impossible to adequately address potential impacts to County roadways and surrounding communities. The County recommends that the General Plan/ DEIR include additional plan related information related to anticipated growth of park capacities so an adequate analysis of potential impacts to traffic/ transportation may occur.”
- 4-5
4. “Focused- Use Zone I” may be susceptible to flash flooding as a result of the steep slopes and drainages located generally west of the alluvial fans located within that area as depicted in Borrego Valley Flood Management Report prepared by Boyle Engineering Corporation, dated October 1989. The General Plan/ DEIR fails to address hazards related to flooding and its potential impacts to general safety both within the park and neighboring County lands. The sparse desert vegetation and steep slopes allow for little interception of rainfall and for rapid runoff of both water and sediment during the infrequent but intense storms that typically cause the most

#4-6 California State Parks has initiated trail site planning with staff and members of the public. It is expected that a Trails Management Plan will be developed after the General Plan is approved. The Trails Management Plan will be subject to public review under CEQA and about 50 miles of trails are on the planning table for consideration. Trail use is identified and discussed under each of the Management Zones, including the Backcountry Zone. However, public access and the type of access to approved trails will be addressed in the Trails Management Plan. Park lands are open to public access, and trails are managed for public use---so to the extent possible, trails will remain open for use by hikers and equestrians, and some to mountain bikers. Approximately 500 miles of primitive roadways are also open to highway legal vehicles for backcountry access.

4-5
(cont'd)

serious flooding. Areas of hazard are difficult to identify because even where washes exist, the high sediment loads and the dynamics of sediment transport can result in sudden shifts in flood paths. The County recommends that the DEIR include a section addressing potentially significant impacts associated with flood hazards that could result from implementation of the General Plan. Likewise, potential hazards relating to flooding should be considered when facilities are situated within the "Zone."

4-6

5. The General Plan/ DEIR states that approximately 21% of the park will be designated "Backcountry." This zone includes trails for hiking, biking, driving and equestrian riding, in addition to a number of other recreational activities. Additional trails proposed in this zone should be presented for subsequent environmental review to assure that constructions and maintenance will not have any significant impacts on County lands or interests. Additionally, the "Backcountry" land designation should include language stating that public access to the trails will be maintained.

The County of San Diego appreciates the opportunity to comment on the Preliminary General Plan/ Draft Environmental Impact Report for the Anza-Borrego State Park and looks forward to receiving future documents relating to implementation of this General Plan.

Please contact Lori Spar, Environmental/ Land Use Planner, at (858) 694-8838 if you have any questions or comments concerning this letter.

Sincerely,



GARY L. PRYOR, Director
Department of Planning and Land Use

GLP:JEG:LS

cc: Eric Gibson, Deputy Director, Department of Planning and Land Use, M.S. O650
David Graham, Policy Advisor, County of San Diego District 5, M.S. A-500
Megan Jones, CAO Staff Officer, M.S. A-6

Reference County Project IJN 04-056

#5-1 The Existing Conditions section of the General Plan will be revised to include a recognition of the presence of SDG&E and Imperial Irrigation utility easements and existing transmission systems. Additionally, the existing major transmission lines and easements will be placed on the Preferred Alternative in the final General Plan. It should be noted that Figure 6.6 contains a disclaimer that not all privately held ownerships or easements are shown. This is primarily due to the small scale of the map.



David L. Geier
Vice President
Electric Transmission & Distribution

San Diego Gas & Electric
8330 Century Park Court
San Diego, CA 92123-1530

Tel: 858.650.6131
Fax: 858.650.6106
dgeier@SempraUtilities.com

August 27, 2004

Environmental Coordinator
Southern Service Center
California Department of Parks and Recreation
8885 Rio San Diego Drive, Suite 270
San Diego, CA 92108

Re: Anza-Borrego Desert State Park Preliminary General Plan/Draft EIR

Sir/Madame:

This letter is in response to the July 15, 2004 Notice of Availability for the joint Preliminary General Plan (General Plan)/Draft Environmental Impact Report (DEIR) prepared by the California Department of Parks and Recreation (Department) for the Anza-Borrego Desert State Park (Park).

San Diego Gas & Electric (SDG&E), which provides electric power to the greater San Diego region, has two electric transmission line easements that traverse different areas of the Park. The first transmission easement is an approximately 17 mile, 100-foot wide transmission corridor that contains a 69 kilovolt line predating the creation of the Park. This electric transmission line provides service to the Borrego Springs community and the Park's facilities and serves as a backup feed to the Imperial Irrigation District electrical system. The second is an approximately 17 mile transmission easement of varying widths (up to 125 feet) generally from Narrows to Scissors Crossing in the Park authorized for a 69 kV line but does not yet contain those authorized electric facilities. In addition to these transmission line easements, SDG&E has several lower voltage electric distribution line easements and facilities currently providing power to Park improvements. Neither SDG&E's existing electric transmission facilities nor the currently unused transmission easement nor the distribution easement and facilities are identified in Section 2.0, "Existing Conditions" within the General Plan/DEIR. Also, the General Plan/DEIR does not mention any potential future electric facilities traversing the Park. SDG&E requests that the Final General Plan/Final Environmental Impact Report (FEIR) acknowledge and give appropriate treatment to SDG&E's existing facilities and property rights within the Park boundaries based on the following.

5-1

#5-2 The vacant SDG & E easement crosses existing Wilderness, and therefore, in that instance, there is no change with the implementation of the General Plan. The Plan section of the General Plan will be revised to specifically exclude existing SDG&E transmission lines from proposed Wilderness designations and specifically allow existing transmission systems (those predating approval of the General Plan) within the Backcountry zone. While the built transmission corridors are existing uses, the vacant corridors would be subject to all appropriate federal and state environmental review, compliance, and permitting should SDG & E seek to utilize their easement. The Preliminary General Plan's delineation of Wilderness depicts our department's intentions to preserve the visitor's natural experience in large tracts of land and unbroken vistas within the park. CSP recognizes SDG&E's legal rights along existing easements and will work cooperatively with SDG&E to relocate existing easements (and appurtenant facilities) to locations less obtrusive and outside our proposed Wilderness areas (such as immediately adjacent to existing highways).

#5-3 Should any transmission facilities be proposed in the SDG&E Renewable Resource Plans and submitted to the Public Utilities Commission for review, it is imperative, given the trustee agency status of CSP, that coordination or at least a copy of any proposals be sent to California State Parks early in the planning stages on land owned by CSP. While CSP is very supportive of the use of renewable energy resources, CSP does not agree that such actions can only be accomplished by bisecting state park lands with additional utility corridors. SDG&E should consider the use of expanding facilities within relocated easements (see Response #5-2) or investigate other routes away from state park property.

The placement of new utility corridors is inconsistent with the statutes that dictate the purposes for State Parks.

California Dept. of Park and Recreation
August 27, 2004
Page 2

5-1
(cont'd)

Both the Planning Handbook for General Plan, Guidelines to Existing Conditions and Issues and the California Environmental Quality Act (CEQA) identify what information should be included in California State Park planning documents. These frameworks require an accurate description of existing conditions to establish the existing environmental baseline conditions for purposes of accurately describing the potential environmental impacts of the proposed General Plan and conducting an adequate environmental review under CEQA. (Planning Handbook, Feb. 2002, p. 49; CEQA Guidelines § 15125.) In particular, the Planning Handbook suggests that utilities—and specifically power lines—be identified as existing facilities and included as an element of the planning process because existing facilities set much of the environmental baseline context for the General Plan. (Planning Handbook, pp. 47, 49-50)

5-2

Even though Anza-Borrego Desert State Park already enjoys the distinction of being one of the largest areas of state wilderness in California, the General Plan/DEIR propose substantial increases in the “Wilderness” management zone designations within the Park. Of particular concern to SDG&E is the potential designation of a Wilderness Management or Backcountry zone over or adjacent to SDG&E’s easements and existing 69 kV transmission facilities in the Park, as depicted on Figures 6.6, 6.7 and 6.8 of the General Plan. In California, Wilderness is defined in part as relatively undeveloped land *without permanent improvements*, or structures that existed at the time of classification of the area as state wilderness and that the State Park and Recreation Commission has determined may be maintained and used in a manner compatible with the preservation of the wilderness environment. (See, Pub. Res. Code § 5019.68.) The General Plan describes the Backcountry zone as a “predominantly natural environment with moderate evidence of human existence” that will “primarily stay unmodified” to provide park users an opportunity to “experience the primitive open space and natural elements of the desert.”

5-3

The General Plan acknowledges that the boundaries of proposed Wilderness areas were drawn in part to “prevent bisecting natural areas and vistas so important to the public’s enjoyment of ABDSP with man-made features such as utility corridors.” (Plan, p. 3-15) SDG&E’s transmission corridor predated the creation of Anza-Borrego Desert State Park, and yet the very definition of Wilderness prohibits any man-made structures and the purpose of the Backcountry zone is retention of a primitive environment (or at least requires the Commission to make individual, narrow compatibility determinations in either zone). The Department should not only acknowledge the presence of SDG&E’s facilities and property rights in the Final General Plan/EIR, but also identify a more appropriate zoning designation when facilities and easements are either within or adjacent to the proposed zones in those locations. In essence, the General Plan/DEIR denies, prohibits or substantially constrains the existence of SDG&E facilities and rights within the Park. It cannot be good planning to apply a management zone that inherently conflicts with current and future uses. This is particularly critical because the approximately 56-mile eastern boundary of the Park occupies all but about 2.25 miles of the entire eastern border of San Diego County. SDG&E’s 2004 Renewable Resource Plan submitted to the California Public Utilities Commission includes future transmission that may traverse the Park in order to access renewable energy resources that may be developed east of the Park. Pursuing renewable

#5-4 California State Parks respectfully disagrees. The management zones are intended to guide future park managers in a way that is compatible with the Park vision statement and the natural, aesthetic, cultural, and recreational resources of the Park. Anza-Borrego Desert State Park is unique and internationally known for its desert resources. The management zones are an integral part of preserving the Park for future generations.

#5-5 See Response #5-4. However, the ABDSP Final General Plan/EIR will incorporate an additional goal under infrastructure that specifically addresses roads and utilities operated by other entities within the Park and include language allowing for some flexibility for utilities in the Management Zone Matrix for the Backcountry Zone. It will be stated as: Goal – Operations 4: Roads or utilities operated by other agencies, including Caltrans and utility companies, serve both the Park and users outside the Park yet may adversely affect Park resources through their construction and operation. Coordination with these agencies could allow for the relocation of existing corridors into less sensitive areas or along existing roads.

#5-6 The expansion of the designated wilderness is intended to provide many things including enhanced protection of natural and cultural resources, enhancement of the wilderness recreational experience, and the protection of the vistas and other geologic features for which the Park is renowned.

#5-7 The Focused Use Zone is primarily identified as areas where park use will include facility development. This use would not be appropriate along the existing corridor currently containing electric facilities. There is Backcountry Zone along this corridor as shown in Figure 6-6. Please see Response #5-5. The currently unused transmission easement crosses a large stretch of land currently designated as Wilderness between the Narrows and Scissors Crossing. It appears that a only small portion may cross the proposed wilderness near Scissors Crossing. The vacant corridor would be subject to all appropriate state and federal environmental review, compliance, and permitting should SDG & E seek to utilize their easement. Changing the management zones to FUZ I or II would not allow California State Parks to be consistent with its *Mission*.

California Dept. of Park and Recreation
August 27, 2004
Page 3

5-3
(cont'd) resources and delivering such energy into the electric system is a primary goal of California, state agencies, the San Diego region and local interests. We will not be able to take advantage of a substantial amount of currently identified renewable resources, if land use restrictions such as the Park's exclusionary zoning prevent transmission access to the renewable resources.

5-4 It is imperative that the Commission reclassify the proposed management zones in areas of the Park related to SDG&E's existing facilities and land rights because all future actions must be consistent with the goals and guidelines of the General Plan, and if it does not conform, "it will not be implemented." (Plan, p. 4-9) The General Plan/DEIR is a first-tier environmental analysis of broad potential environmental impacts that will provide the basis for future second level environmental analysis. (Plan, p. P-3) If proposed uses and facilities are precluded by the first-tier document (General Plan), then there cannot be a second-tier review. The broad based goals and policies of the Plan propose the adoption of various management zones, which provide conceptual parameters for future management actions in the Park. (Plan, p. P-4) All future action by the Commission "will need to be found consistent with the adopted ABDSP General Plan." (Plan, p. P-6) The Commission cannot implement a tiered approach effectively when the underlying zone designation in the first-tier document prohibits the existing facilities in that zone, let alone potential future facilities that would be considered in second-tier review. It is for this reason that the Department should revise the restrictive Wilderness and Backcountry zone designations either over or adjacent to SDG&E's easements and facilities to enable the Commission to consider site-specific projects in a second-tier review.

5-6 The General Plan admits that "the expansion of the designated wilderness is intended to prevent bisecting the natural areas and vistas . . . with man-made features such as utility corridors." (Plan, p. 3-15) The Park currently uses electricity and contemplates additional facilities without explaining how it will obtain energy for those facilities. Despite the Department's resistance to man-made features in the Park, it is critical to Southern California's electricity needs that SDG&E continue to operate, maintain and potentially expand its existing 69 kV line and plan for future transmission facilities in its other easement. The land use designations in the General Plan/FEIR significantly affect the region's ability to accommodate new energy infrastructure because the Park covers a vast majority of the eastern border of San Diego County.

5-7 At a minimum, the Final General Plan/FEIR should reflect a linear Backcountry zone rather than a Wilderness zone along the existing corridor as a buffer adjacent to other areas of the Park. But even the proposed Backcountry zone is not ideal because that zone designation does not explicitly allow for utilities and utility access roads. A Focused Use Zone II (FUZ II), which allows for utility corridors and roads, is preferable over and adjacent to SDG&E's facilities and land rights because "a majority of facility development will occur within the Focused Use Zone I and Focused Use Zone II." (Plan, p.4-9) To accommodate resource protection, SDG&E suggests a FUZ II buffer be placed on both sides of the existing 100-foot wide corridor currently containing electric facilities. A similar FUZ II buffer should be added along the currently unused transmission easement from Narrows to Scissors Crossing in the Park. These limited

California State Parks Response

Comment Letter 5 – SDG&E

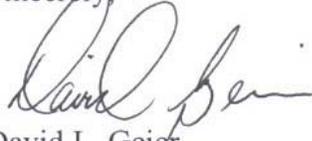
California Dept. of Park and Recreation
August 27, 2004
Page 4

5-7
(cont'd)

management zone changes from Wilderness to Focused Use Zone II would still allow the Department to achieve consistency with its mission to protect natural resources and provide for over 400,000 acres of Wilderness under *any* alternative.

SDG&E appreciates the opportunity to comment on the Anza-Borrego Preliminary General Plan/Draft Environmental Impact Report. Please contact me at (858) 650-6131 with any questions you may have.

Sincerely,



David L. Geier
Vice President
Electric Transmission and Distribution

#6-1 A point of clarification is in order. The November 2003 Preliminary General Plan/FEIR did not establish additional Wilderness Zones beyond the Wilderness Zones identified in the January 2003 Preliminary General Plan/EIR. Instead, the proposed Wilderness Zones in the January 2003 document were named for State Wilderness classification purposes in the November 2003 document.

#6-2 California State Parks (CSP) respectfully disagrees that the General Plan does not represent the best interests of the residents of California. CSP has welcomed the public into the planning process for the General Plan and received substantial support for the plan from members of the public as noted in the public comment letters and comment letter matrix.

Please also note Table 5.8 “Reasonable Projection of Development.” Within this table, existing facilities are not eliminated but are expanded. It is anticipated that if, under the management plans, areas with resources subject to damage from camping or other recreational uses are closed, that other areas would be opened.

The Plan does not reduce camping use. Establishment of the Cultural Preserve reduces the acreage available for open camping by 0.004 %. CSP does not believe that the existing acreage has reached capacity for open camping, so this action will not discourage any campers from using the park.

The Plan does not eliminate any existing designated “access trails for vehicles.”

Through the establishment of various management zones, the Plan does limit development of future visitor-serving facilities to certain areas that are conducive to those purposes (in other words, consistent with General Plan goals for resource protection and high quality visitor experience).

CSP disagrees with the contention that Wilderness Areas “are closed to all but the most able-bodied hikers.” Proposed Wilderness Areas were delineated so as to not affect (close/reroute) any existing designated roads. These new wilderness lands are immediately adjacent to existing designated roads; much of their margin acreage is readily accessible to a wide range of backcountry visitors.

**LOUNSBERY FERGUSON
ALTONA & PEAK LLP**

Comment Letter 6 – LFA&P; Hubbard

960 Canterbury Place, Suite 300
Escondido, California 92025-3836
Telephone (760) 743-1201
Facsimile (760) 743-9926
Email lfap@lfap.com

ATTORNEYS AT LAW

OF COUNSEL
GARTH O. REID

SPECIAL COUNSEL
JOHN W. WITT

DAVID P. HUBBARD, ESQUIRE
Direct Dial (760) 743-1226, ext. 111
Email: dph@lfap.com

September 10, 2004

Via Facsimile & Overnight Mail

Environmental Coordinator
Southern Service Center
CALIFORNIA DEPARTMENT OF PARKS & RECREATION
8885 Rio San Diego Drive, Suite 270
San Diego, CA 92108
FAX: (619) 220-5400
Enviro@parks.ca.gov

Re: *Comments on the Anza-Borrego Desert State Park Preliminary General Plan and Environmental Impact Report (SCH# 200201060)*

Dear Sir or Madam:

6-1 | This firm represents the California Off-Road Vehicle Association (“CORVA”), the San Diego Off-Road Coalition (“SDORC”), American Motorcycle Association District 37 (“AMA-37”), and the Off-Road Business Association (“ORBA”) in matters affecting the Anza-Borrego Desert State Park (“ABDSP” or the “Park”). In March 2003, we commented on the initial draft of the *Anza-Borrego Desert State Park Preliminary General Plan* (the “Plan”), issued in January 2003.¹ When this version of the Plan was finalized, we noticed that it included significant new information, including the establishment of additional Wilderness Areas. We requested that the Department of Parks and Recreation (DPR) recirculate the document so that the public could comment on the proposed changes to the Plan. DPR agreed to this proposal and issued a new draft Plan in July 2004. It is this draft to which we direct our comments.

Executive Summary

6-2 | The July 2004 Plan warrants careful and critical review – not only because it constitutes the first general plan ever developed for ABDSP, but also because it reflects a public land use ideology that may not be in the best interest of the residents of California. While acknowledging

¹ We incorporate by reference all comments set forth in our March 2003 letter.

#6-3 CSP respectfully disagrees that an incremental, piece-meal reduction in public access is encouraged in the General Plan. Please see Response #6-2. Additionally, the General Plan clearly addresses the future planning for the park in a method that is manageable for a park of this size. After much public input, the Park's Mission Statement was developed. The General Plan clearly identifies that the natural features of the Park must be preserved not only for resource protection but in order to protect the quality of the recreational experience.

#6-4 CSP respectfully disagrees that the intent of resource preservation is buried in "policy planning double speak" or that there is intent by Park managers to keep people out of the Park. There is no conspiracy. Here are the facts:

- The Plan recognizes the recreational opportunities at ABDSP and embraces the goal to provide a high quality outdoor recreation experience. The Plan commits the Department to protecting the values (solitude, views, quiet, opportunities for discovery, scenic beauty) that attract visitors (hikers, vehicle users, equestrians and mountain bikers) to the park. Please see Section 3.3.1.7.
- ABDSP currently has over 400 miles of publicly accessible dirt roads. This is five times more dense than what the public is able to experience at other desert parks with comparable missions (Death Valley National Park, Joshua Tree National Park, Organ Pipe National Monument).
- The Plan does not specifically dictate the removal of any of these existing roads.
- Proposed Wilderness boundaries were delineated to keep existing roads intact.
- The Plan allows for the expansion of camping and trails, not reduction. (See Table 5.8)

#6-5 In specific geographic locations within the park, CSP has taken actions to reduce visitation where damage to natural or cultural resources was occurring. In each case, the resource damage was either reversed or arrested. These incidents alone document that intense visitation can negatively affect natural and cultural resources. Numerous scientific studies also support that conclusion. Nevertheless, the Plan proposes that an increase in visitation can occur with project implementation consistent with General Plan management zones, goals and guidelines. See Table 5.8.

#6-6 Please refer to Response # 6-2 & 6-4, the General Plan does not propose an overall reduction in recreational uses. The following will be added to Section 4.5.3.7 at the end of the Second paragraph under Discussion "Recreational use of roads, trails, and camping in BLM areas indicate that recent closures on BLM property have adversely affected recreational opportunities." CSP respectfully disagrees that the Cumulative Impact section is weak. The General Plan is general in nature and does not address specific closures within or near ABDSP. However, the following statement will be added to Section 4.5.6 at the end of the first paragraph: Closures by other public recreation providers in the region may limit recreational activities and the place greater demand on similar recreational areas within the Park and region. Depending on the sensitivity of the resources present in such areas, there may be adverse effects on natural, cultural, and other physical resources as well as the experience of the recreational user that appreciates the solitude or adventure found in such areas.

6-2
(cont'd)

that the populations of Riverside and San Diego Counties will continue to grow over the next 15-20 years, creating more demand for recreational opportunities at ABDSP and elsewhere, the Plan does little to accommodate this demand. Instead, it reduces camping areas, eliminates access trails for vehicles, limits visitor-serving facilities, and expands Wilderness Areas that are closed to all but the most able-bodied hikers. Through this Plan, DPR abandons its responsibility to provide a wide-range of outdoor recreational experiences for the increasingly overworked and overtaxed families that live in the congested urban areas of Southern California. The Plan expresses a strong policy bias in favor of those select few who have the ability to hike long distances in desert conditions. Everyone else must experience much of the Park from a great distance or not at all. Access to many of the Park's features is denied to children, the aged, the physically handicapped, and to healthy adults who simply do not wish to backpack in the Anza-Borrego heat.

6-3

Of course, this process of reducing public access to the Park and its unique recreational resources does not happen all at once. It is incremental; a piece-meal erosion. The proposed Plan, however, makes very clear that this process has begun in earnest. One need only review the change in the Park's "Mission Statement" to see that an ideological shift has taken place. The managers of the Park believe their primary duty is to operate ABDSP as a natural resource protectorate, not as a venue for recreation and sightseeing.

6-4

Perhaps this is DPR's intent. It is, after all, simpler and cheaper to manage resources than it is to manage people – especially when to accomplish the former one need only deny access to the latter. However, if this is truly DPR's design, the people of California deserve to know about it up front; it should not be buried in the policy-planning double-speak that characterizes the proposed Plan. Further, DPR must explain how a plan so hostile to camping, OHV touring, rock-hounding, and horseback riding can possibly satisfy DPR's obligation to provide the people of California with high-quality outdoor recreational opportunities, including access to the many natural wonders located within the State. Put simply, DPR is supposed to encourage people to visit ABDSP, not keep them away, or push them out.

6-5

The proposed ABDSP Plan implies that the Park must reduce the number of visitors or risk destruction of its natural and cultural resources. This is false. The data do not support any claim that the Park's resources face immediate threats from the current or anticipated level of human activity at ABDSP.

6-6

In the specific comments to follow, we identify areas in the Plan that are especially detrimental to public access and need to be withdrawn or substantially reworked. We also point out where the environmental analysis is weak. For example, the EIR's discussion of cumulative impacts on recreation is especially inadequate. It fails to address the Plan's effect on public recreation in conjunction with the trail and camping closures recently implemented by the Bureau of Land Management (BLM) in the Western Colorado Desert (WECO), the Northern and Eastern Colorado Desert (NECO), and the Imperial Sand Dunes Recreation Area (ISDRA), all of which are located near ABDSP and serve the population centers of Southern California.

#6-7 As stated in Section P.1, the entire General Plan is also an EIR. The areas being designated as State Wilderness currently do not contain designated roads so there is no recreational impact to existing legal vehicular use. There would be potential loss of recreational opportunity should a road be closed in the future to protect sensitive resources and that has been addressed in Section 4.5.3.7. As indicated on Table 5.8, there are no existing legal trails or other facilities within the Cultural Preserve. Therefore, the primary loss of existing recreation that occurs with adoption of the General Plan is the ability of equestrians to ride off-trail in the Wilderness Zone. This loss of recreational use will be addressed in Section 4.5.3.7 under Discussion with the following statement: “Park users are concerned with maintaining current access and recreational activities in the Park. Under the General Plan, existing uses will be maintained except for off-trail use for equestrians in the Wilderness Zone and equestrian access in the new Cultural Preserve. Future planning efforts may further restrict some existing uses as management plans are developed, however, it is anticipated that similar recreational uses will be developed in areas with less sensitive resources”. It is not determined to be a significant loss of recreation because equestrian use is allowed on trails in the Wilderness Zone and additional trails are proposed under the General Plan with the subsequent adoption of the Trails Management Plan. It is also anticipated that additional facilities for equestrians will be constructed under the General Plan.

#6-8 Please see Response #6-6. CSP respectfully disagrees that Section 4.5.6 does not address cumulative effects on resources, including recreational resources, in both the Park and on adjoining lands. During the public review process for the General Plan, many people requested that the Park remain essentially unchanged, without major new facilities. Therefore, the facility increases suggested in Table 5.8 are small compared to the size of the Park. CSP disagrees that there is a “closure campaign” to prevent recreational access. As park managers, CSP is charged with protecting the Park’s resources that are valued by so many visitors. Recreational opportunities for off highway driving on park roads will remain, as will trail riding and hiking. However, this recreational demand must be balanced with the need to protect the Park resources and may require redirection of some activities to other areas. For example, the Vallecito Ranch acquisition will open a new recreational area to the public.

#6-9 Please see Response #6-6. CSP respectfully disagrees that there is an inadequate level of assessment at the program level document or that there is inadequate mitigation proposed. The specific projects proposed under the General Plan either as capital outlay projects or management plans will address specific mitigation measures. As indicated in Table 5.8, overall facilities for recreational use will increase under the General Plan, not decrease. Because the General Plan does not propose new road or trail closures, it is not appropriate for Mitigation RR1 to address specific closures. Mitigation RR1 creates a policy through the General Plan of providing mitigation for potential recreation impacts should a focused management plan or facility plan impact recreational uses. Future plans will be subject to compatibility with the General Plan and appropriate CEQA compliance, thus ensuring that the “promise” is enacted by future park managers.

Specific Comments

1. The EIR's Analysis of Plan's Direct Recreation Impacts is Deficient

6-7 For a Plan that covers such a large area and such a wide range of activities, the EIR's "Environmental Effects" discussion is woefully thin, consisting of only 12 pages. The analysis of the Plan's impacts on Recreation Resources consumes just one page. This is startling given that the revised draft of the Plan redesignates 57,800 acres as Wilderness Areas and 2,600 acres as a Cultural Preserve. These redesignations will forever restrict the amount and type of recreational activities that will be allowed on these lands. The EIR does a poor job of describing this impact, assigning it a magnitude, or placing it in context. Moreover, the EIR fails to assess the impact of the redesignation in conjunction with the Plan's other encroachments on public access and recreation.

2. The EIR Fails to Provide an Adequate Assessment of the Plan's Cumulative Impacts on Public Access and Recreation

6-8 The EIR's entire "Cumulative Impacts" analysis consists of two paragraphs located on page 4-20. This analysis does not discuss the Plan's cumulative effects on various resources, including recreational resources. For example, the EIR acknowledges that BLM has recently issued land management plans that reduce camping areas and trails in the NECO, WECO, and ISDRA, resulting in potential increases in demand for such facilities at ABDSP. (See, pg. 2-109.) However, the EIR fails to assess whether the proposed Plan will exacerbate this problem. Preliminary indications are that it will, as it imposes more restrictions on public access and use of ABDSP, leaving many desert visitors no choice but to spend their desert vacations in designated camping "ghettos" or travel elsewhere. This impact is all the more severe given the increasing need for outdoor recreational opportunities. The populations of San Diego, Riverside, Orange, and Imperial Counties continue to grow. The urban and suburban areas within these counties are increasingly characterized by congested conditions, leaving people with few outlets for the stress they experience during the workweek. Prior to BLM's and DPR's closure campaign, the desert areas of the ABDSP, the NECO, WECO, and ISDRA provided fantastic venues for the kind of outdoor recreation people in the urban core so desperately need and want. Unfortunately, the proposed ABDSP Plan does not address this demand; and the EIR does not analyze the Plan's cumulative impact on recreation.

3. The EIR Provides Insufficient Mitigation Measures for the Plan's Impacts on Recreation

6-9 Given the EIR's inadequate assessment of the Plan's direct and cumulative impacts on recreation, it is no surprise that DPR has formulated insufficient mitigation measures to reduce those impacts. In fact, DPR has offered only two mitigation measures, neither of which comes close to actually addressing the loss of recreational opportunities to be expected once the Plan is

#6-10 Please see Response #6-9. As addressed above, the intent of the General Plan is to provide guidance to **ensure** that future recreational impacts are mitigated as specific projects are implemented. Alternative recreational activities range from enhanced interpretive (educational) elements, to new trails, camping, and staging opportunities. Further, while it is not the intent of CSP to create new roads within existing area of the Park, new roads will be available to the public with new acquisitions. Roads may also be realigned or replaced under future management plans to allow resource recovery while still providing vehicular access. These activities are addressed in the Sections 3.3.1.5 and 3.3.1.7 of the EIR under Interpretation and Visitor-Use and Opportunities.

#6-11 Please see Response #2-2. Please also see Comment #9-20. The Coyote Canyon trail was closed to motorized vehicles in 1995 and the Statute of limitation has expired on the environmental document (the Coyote Canyon Public Use Plan, attached as Appendix 9.6 in the July 2004 ABDSP Preliminary General Plan/EIR). Implementation of the General Plan does not create a new recreational impact. CSP does not concur with the conclusions in the commentor's letter that the relinquishment of roads and the closure of the jeep trail in Coyote Canyon was and is unlawful. This route was a jeep trail that was established sometime after the end of World War II as four-wheel drive jeeps became popular. The trail came into being through recreational off-road use and was never established as a state or county road of highway.

A state highway must be established pursuant to constitutional or legislative authorization (Streets and Highways Code [S&HC] § 24.) We find no statutory or constitutional provision that establishes the trail known as "Coyote Canyon Road" as a road in the State Highway System. In order for a road to be established as a county or other local road through a state park, it must be approved by State Parks (S&HC § 122). There has been no approval by State Parks of any road through Coyote Canyon. Although proposed by some groups in the 1950s, there is no evidence that such a road was established by the County of San Diego as is implied.

Furthermore, no road was ever established pursuant to the provisions of Revised Statute 2477 (RS 2477). The burden is on the person claiming the road to prove that a road was established. Any doubts as to the scope of any claimed easement or road must be resolved in favor of the government (*Adams v. US* (1993) 3 F.3d 1254.)

The Coyote Canyon lands were dedicated to state park use in 1933. Based on our research, no evidence exists that a road existed prior to that time, and no evidence has been produced to that effect. The evidence that may exist indicates that the trail was developed following World War II as a recreational four-wheel drive trail. This is simply insufficient to support a claim of easement by way of RS 2477 (*Humboldt County v. United States* (1982) 684 F.2d 1276).

Since no state highway or local road has been established, no road exists which may or is required to be relinquished. Thus, there can be and is no violation of the provisions for road relinquishment cited in your letter.

Public Resources Code §5001.8 establishes the statutory requirements for motorized vehicle use. Except for approved local paved roads and roads in the State Highway System, the Department must designate and approve trails and other roads for motorized use. Pursuant to this statutory provision and direction, the Department is mandated and well within its legal authority and mission to close the jeep trail through Coyote Canyon in order to properly protect and preserve the fragile and sensitive natural resources in the canyon.

#6-12 CSP respectfully disagrees. The General Plan addresses this issue in Sections 3.2.4.5 (Page 3-15) and 4.5.3.7. Additionally, the January 1999 Alternative Routes of Travel, Coyote Canyon, ABDSP, Feasibility Study prepared by Dudek and Associates, acknowledged numerous alternatives

6-9
(cont'd)

implemented. The first one – Mitigation RR 1 – is simply a promise by DPR to review current and potential recreational activities for consistency with various land use plans and to address possible mitigation measures in the future. This means nothing. It commits DPR to nothing. In no way does Mitigation RR 1 reduce the effects of the use restrictions and land reclassifications set forth in the Plan.

6-10

Mitigation RR 2 is likewise deficient. It states, in its entirety, that “California State Parks will make available to the public alternative recreational activities that are compatible with resource protection in areas within ABDSP that contain sensitive natural and cultural resources.” The EIR, however, never identifies or describes these “alternative recreational activities.” Nor does the EIR explain how these alternatives compensate for the recreational activities that have been curtailed or eliminated by the Plan. Further, the EIR does not state where these alternative activities will be permitted and whether they, too, will come with restrictions. Without this very basic information, there is no way to determine whether and to what extent Mitigation RR 2 will reduce the Plan’s impacts on recreation.

4. EIR Fails to Address RS 2477 Status of Coyote Canyon Road

6-11

No other area of ABDSP generates as much controversy as Coyote Canyon, yet the Plan and EIR make no mention of the ongoing and heated debate over the continued closure of Coyote Canyon to vehicles. We are especially concerned by the EIR’s failure to address Coyote Canyon Road’s status as a protected RS 2477 roadway. In a written opinion issued at the request of State Senator Bill Morrow, the California Office of Legislative Counsel determined that (1) Coyote Canyon Road likely is entitled to RS 2477 protection, (2) DPR lacks the legal authority to close public roads, including and especially RS 2477 roads, and (3) even if DPR had the authority to close public roads, such closures cannot be made to promote environmental protection. Based on these findings, the Office of Legislative Counsel concluded that DPR erred when it closed the 3.1-mile section of Coyote Canyon Road between the Upper and Middle Willows. This issue should have been discussed in the EIR, but it was not. As a result, the EIR is defective.

5. The EIR Fails to Assess the Plan’s Effect On Future Efforts to Realign Coyote Canyon Road

6-12

On page 3-15, the Plan/EIR indicates that the proposed Will-ye Wilderness will border Coyote Canyon Road, effectively pre-empting any attempt to realign the road so that it might be reopened to vehicles. Given that DPR violated both federal law (RS 2477) and state law (Cal. Highways and Streets Code) when it closed a 3.1-mile section of Coyote Canyon Road in 1995, DPR should make every effort to keep realignment options open, as this may be the best and only way to cure the unauthorized closure. Establishing a new wilderness area immediately adjacent to the road – especially when there is no pressing need for the reclassification – is ill-advised given the uncertainties surrounding Coyote Canyon’s status. Indeed, it appears that DPR is proposing the Will-ye Wilderness at this time simply to forestall any attempt to realign Coyote Canyon Road.

#6-12 cont. for road re-alignment and found fatal flaws with all considered. Wilderness designation, archeological sites, Federally Endangered bighorn critical habitat, least Bell's vireo nesting habitat, and riparian zones precluded road construction in the study area. The Lower Willows road re-alignment did not involve building the roadway in previously designated State Wilderness Area. The Bypass Road was approved in a canyon designated as State Park. The State Park & Recreation Commission approved this route through State Park, then upon completion of the road, the surrounding lands were thereby designated as State Wilderness in order to bring about a higher level of protection to the valuable riparian zone of Lower Willows. The EIR addresses the potential recreational impacts of future road closures and bypass alternatives associated with the Wilderness Zone in Section 4.5.7. However, the potential bypass for Middle Willows and the Middle Willows road closure are past events that have been well studied and subject to legal action and not currently subject to the environmental analysis required for approval of the General Plan.

#6-13 The road system as we know it today was largely in place by the mid 1950's. Many of the roads in the Park were originally established simply to provide access in the direction sought. Also important to note is that much of the road system likely 'grew' through a time when the Park was open to green-sticker vehicles; indicating that unchecked road proliferation as a result of highly versatile OHVs may be responsible for aspects of the road system we use today. At that time, little thought was given to resource impacts, other than avoiding the fouling of water sources, because there simply was so much land available compared to the number of people using it. As our population and knowledge increased, so did our awareness of resource impacts increase. During the late 1960s and 1970s, many landmark federal and state environmental protection laws were approved. As stewards of the Park's resources, park managers need to consider how to reduce the resource impacts associated with access in the park while maximizing the visitor's recreational experience. Given this history, CSP feels it is safe to make the statement that the road system is not planned to minimize resource impacts or maximize the visitor's experience.

CSP disagrees that this plan has "an extremely negative attitude towards trails and roads." As managers, CSP understands the value of the park road and trail system for visitors as well as park management. As Park users, park staff also appreciates this system. CSP disagrees with your statement for the following reasons:

1. Not one single road or trail is proposed to be closed in this plan.
2. All new wilderness designations were designed to preserve the existing access roads
3. Creation of further roads is stated as an appropriate activity in Backcountry Zone.
4. Creation of additional trails is an appropriate activity in every zone, with the exception of the Cultural Preserve

#6-14 The General Plan does not propose to eliminate the ability of the visitors to have safe and reasonable access to the natural splendors of ABDSP but does propose to allow this access in a way that preserves the natural splendors of ABDSP. CSP disagrees that the expansion of State Wilderness in ABDSP will permanently close more designated roads and trails. Wilderness designation will protect existing roadless areas from encroachment of motorized vehicles and keep equestrians on designated trails.

#6-15 Please see Appendix 9.7, The Ecological Conditions in Coyote Canyon, July 2002. The disturbances listed "erosion, unnatural stream hydrology, poor water quality, vegetation loss, and wildlife road kill" are general in nature. For the specific situation of numerous vehicles, repeatedly driving within the surface waters, on the streambed and banks, through a desert oasis, these disturbances are clearly inevitable and generally factual. This is understood by the professionals in the field of ecology.

CSP disagrees with the commenter's statement "To the extent OHV activity has affected the creek bed, those impacts are routine[ly] obliterated by heavy storm flows coming down the canyon." This statement does not accurately describe the ecology of this canyon. Briefly, it fails to recognize several critical aspects

6-12 (cont'd) The EIR does not provide an adequate discussion of the impact of the Will-ye Wilderness on the potential realignment of Coyote Canyon Road. Nor does it include any mitigation measures for this impact. [Note that general or vague mitigation measures are not sufficient to address this impact, as the establishment of the Will-ye Wilderness is a direct action contemplated by the Plan.]

6-13 Our concerns are further heightened by the Plan's extremely negative attitude towards trails and roads generally. For example, at page 2-107, the Plan states that the "road system is not planned to minimize resource impacts or maximize the visitor's experience or education." Like many bold assertions set forth in the Plan, this one lacks supporting data. There is no evidence that the road system at ABDSP was designed without concern for resource impacts. Nor is there evidence that the road system has damaged the overall ecology of the Park. Finally, there is no evidence that the road system does not maximize the visitor's experience and education, except to the extent that past and contemplated road closures prevent visitors from enjoying key areas of ABDSP.

6-14 DPR must accept that roads and trails are absolutely essential if the Park is to serve its intended purpose, which is to provide the residents of (and visitors to) California reasonable and safe access to the natural splendors of the Anza-Borrego desert. There is no getting around the fact that ABDSP's harsh climate makes long-distance hiking difficult (not to mention unsafe) for the majority of individuals. Without the ability to drive on trails and roads, most people would be foreclosed from visiting significant portions of the Park.

DPR's campaign to expand Wilderness Areas in ABDSP will have the practical effect of permanently closing more trails and roads, locking up large areas of the Park and placing them out of reach for the average park visitor. This is wrong and unnecessary.

6. EIR Fails to Substantiate Alleged Vehicle Impacts on Coyote Creek

6-15 At page 2-43, the Plan/EIR alleges that "[a]dverse impacts to Coyote Creek from OHV activity include erosion, unnatural stream hydrology, poor water quality, vegetation loss, and wildlife road kill and disturbance." This statement is not followed by a citation to any report or technical data. The only study that addressed these issues is the one prepared by Stacy Ostermann and Walter Boyce, entitled *Ecological Conditions in Coyote Canyon, Anza-Borrego Desert State Park: As Assessment of the Coyote Canyon Public Use Plan*, issued in July 2002. By letter dated May 26, 2004, this office provided an extensive critique of this study, identifying defects in its methodology, analysis, and conclusions.² What is clear is that flood waters from periodic storms, not OHV use, dictates the hydrology of the creek and is responsible for the erosion observed there. To the extent OHV activity has affected the creek bed, those impacts are routine obliterated by heavy storm flows coming down the canyon.

² By this reference, we incorporate our May 26, 2004 letter into these comments.

#6-15 cont. of ecological disturbance: 1) Persistent, and on-going disturbance- continuously and repeatedly driving the length of the surface water of a desert oasis qualifies as a persistent and on-going disturbance to this sensitive habitat. Although CSP agrees that there are dramatic changes to a desert oasis associated with periodic heavy flow events, CSP does not accept that everything that happens to that area between flood events is of no consequence. In fact, what happens in this interim period is critical for the manner in which the oasis reacts to the flood force and recovers post-flood. 2) Cumulative effects and interaction - a major flood is one disturbance. Tamarisk is another. Vehicles driving repeatedly within the surface waters, and on the streambed and banks of a desert oasis, constitute an additional disturbance to that sensitive habitat. Each disturbance affects the ecology of the area in unique and far-reaching ways. Not only is the sum of these disturbances important to note, but one must also consider the interaction. Vehicles driving within the surface water of a desert oasis, on the stream bed and banks, not only results in a direct negative effect to the system at the specific moment of this impact, but also contributes significantly to a host of interaction and cumulative effects. These negative effects can be identified and discussed in many ways, but some of the most significant to note are water velocity and scour, and establishment of exotic vegetation.

Vegetation loss: CSP agrees that tamarisk is a significant threat to the native vegetation, but please note that we do not state what “is the biggest threat.” As stated above, it is important to consider the persistence, sum, and integration of all effects. Furthermore, please note that persistent disturbances in natural communities are known to promote the establishment of exotic vegetation.

Water quality: The release of substrate and bank associated sediment into the water column is considered a pollutant by the California Regional Water Quality Control Board. The action of vehicles driving within the surface water of a desert oasis, on the stream bed, and on the banks, results in the release of sediment into the water column, which has negative effects on the aquatic community and terrestrial biological elements ecologically tied to this community.

Wildlife Road-kill: The desert oasis is rich with life, and significantly so because it is a refuge in an otherwise harsh environment. Much of this life congregates in the water or on the stream banks, closely associated with the surface water. Much of this life is also somewhat slow moving, or if fast moving may avoid danger by keeping still and hiding (as in a burrow). This is the obvious wildlife that is directly killed by vehicles driving through a desert oasis. For example, researchers conducting aquatic surveys in Coyote Canyon for the Resources Inventory of the park, observed “decimation of a chorus frog larval population” when OHV entry was re-initiated following closure. Given this and other observations, they concluded that “the regular presence of off-highway vehicles during the access season greatly inhibits this successional sequence, and continued disturbance and associated erosion causes a dramatic decline in the diversity and abundance of organism.” (Herbst et. al 1995, “An aquatic habitat survey and invertebrate inventory for Anza Borrego Desert State Park”). The job of CSP park managers is to balance and integrate human access with the provision of appropriate and adequate space that allows for California’s extraordinary biological diversity to flourish.

Concerning management of Peninsular bighorn sheep, Park managers rely largely on the *Recovery Plan for Bighorn Sheep in the Peninsular Ranges, California*, produced by the U.S. Fish and Wildlife Service.

#6-16 Extrapolation of findings from related studies is a common scientific practice and a necessary management technique. It is a logical step that is a necessity due to the fact that it would be extremely inefficient to subject every management decision to a site specific rigorous evaluation. Studies have shown that soil disturbance promotes the invasion of exotic plants. Horses disturb soil. It is well documented that desert soils are relatively fragile and slow to recover. Therefore, it is clear that unrestricted equestrian activity has the potential to contribute to the invasion of exotic plants and in general, to a disruption of the system of life that depends upon the integrity of desert soils.

With respect to vegetative loss, the biggest threat is not OHV use, but the rapid proliferation of tamarisk in the creek and along its banks. Fortunately, DPR and others have taken steps to eradicate tamarisk in these areas, giving the natural vegetation a chance to reestablish itself. As for water quality, we are not aware of any study where samples of Coyote Creek water were tested for pollutants association with vehicle use, so there is no technical support for the allegation that OHVs have had a deleterious effect on water quality. Likewise, we are not aware of any data showing that OHVs traveling through Coyote Creek have killed any animals, and DPR has provided no reference to any such data.

6-15
(cont'd)

Finally, on the issue of wildlife disturbance, DPR relies on a number of studies that suggest vehicle activity in Coyote Creek discourages Peninsular Big horn sheep from drinking at the Creek. They also imply that vehicles may affect lambing behavior among Big horn sheep. These “conclusions,” however, are hardly scientific. No direct or even strong correlation between vehicle use of the creek and Big horn sheep behavior has been established. Indeed, the data show that predation by mountain lions, not vehicle use of the creek, has been the predominant factor in reduced sheep numbers. Fortunately, DPR and the Department of Fish and Game have now taken steps to control mountain lion predation, allowing the big horn sheep population to grow.

7. EIR Fails to Establish Link Between Equestrian Activity and Invasive Plant Species in ABDSP

6-16

On page 2-43, the Plan/EIR states that equestrian activities cause erosion, soil disruption and the spread of invasive plant species. However, none of the studies cited in the EIR were conducted in ABDSP. In fact, the EIR refers to no data showing that equestrian activities at the Park are currently creating erosion or soil disruption problems, or increasing the proliferation of exotic plants.

8. EIR Fails to Document Alleged Vehicle Impacts at Blair Valley, Little Blair Valley, and Clark Dry Lake

6-17

The EIR claims that rangers have long observed the “lasting effects of human activity” on the sensitive habitats of Blair Valley, Little Blair Valley, and Clark Dry Lake. (p. 2-47.) Unfortunately, these ranger “reports” are not described in detail or attached to the EIR as an appendix. Nor are they listed among the reference documents on which DPR relied when preparing the Plan and EIR. Without the backup data, the statement that OHVs have caused long-lasting damage to these ephemeral lakes is unverifiable and suspect.

9. EIR Fails to Support Claim that OHVs Have Damaged Orcutt’s Woody Aster

6-18

On page 2-50, the EIR implies that vehicle use of the Fish Creek, Arroyo Salado and Split Mountain washes has adversely affected the Orcutt’s Woody Aster. However, the EIR cites no data in support of this assertion.

#6-16 cont. CSP has stated the existing conditions that are important to consider in future management. The fact that there has not been a site-specific analysis in ABDSP regarding equestrian use, soils stability, and exotic species is important to note. This is a study that would benefit park management and the general scientific literature, which is why we call for investigation and further consideration of this matter in Exotic Biota Goal and Guidelines, Interpretation Goals and Guidelines, and Recreation Goals and Guidelines (See Plan). Please note that: 1) this plan does not propose any closures of equestrian trails or equestrian facilities, 2) this plan allows for future development of equestrian facilities in the Backcountry Zone and both Focused Use Zones, and 3) this plan also allows for the development of equestrian trails throughout all wilderness areas.

#6-17 Please see Section 2.2.2.3 Sensitive Biota, Desert Ephemeral Playas. As managers of the Park's resources, the rangers are not only law enforcement officers, but trained to observe changes in the Park's landscape. As law enforcement officers, their observations are admissible in court and generally given high credibility due to their trained powers of observation and documentation. These reports are available to the public. In Blair Valley, for example, the imprints of vehicle tracks that diverged from the road in years past are commonly seen throughout the length of road bordering the dry lake. On the eastern border of the lake, large expanses of de-vegetated, compacted soils are documented as they extend eastward to the rock slope. Please also see Section 8 which now includes additional references.

#6-18 On page 2-50, the ABDSP General Plan also documents that a team of ecologists identified not only the location of this species (Resources Inventory, CSP 2002), but that vehicular activity was a potential threat due to its location in heavily used washes where the roadway may change because of past flood events. Should the vehicles seek to find an alternative route due to washouts, they may drive over and destroy the Orcutt's Woody Aster in such locations. Please also see Comment and Response # 8-3.

#6-19 This brief discussion of elements that have contributed to the decline of Quino Checkerspot Butterfly is taken from the USFWS recovery plan. It is our obligation to be aware of and consider these potential negative effects. This is an endangered species that depends upon the park for its survival. Please also see Response #6-20.

#6-20 The EIR must consider the potential for impacts. Where sensitive species and activities known to threaten those sensitive species occur together, it must be considered that there is the potential for a negative effect to the sensitive species. This is the existing condition and is an important management issue.

#6-21 The proposed *Will-ye* and *Sin Nombre* wilderness areas currently hold the characteristics necessary for wilderness designation. They are proposed to be wilderness because they can be; they still retain the appropriate value. CSP believes that these designations are necessary to preserve the State's vanishing wilderness qualities.

In addition, the *Will-ye* wilderness is critical for the preservation of wilderness values in Coyote Canyon. Without this extension, the wilderness is truncated by a political boundary (the Riverside/San Diego County line), which represents the park boundary at the time of the existing designations, and is unrelated to the intended wilderness boundaries. In order to truly allow for the persistence of wilderness in this region, we believe that the appropriate designation must include the watersheds associated with the original designation, including the associated valleys and adjacent mountains. Therefore, this designation fulfills a natural and necessary step in wilderness preservation. Regarding the opinion that "one must question the public benefit of forever restricting access to another 57,800 acres," several points must be noted. 1) Wilderness allows virtually unrestricted access on foot and trail access by horseback. Wilderness restricts access only to the extent that it does not allow machinery and man-made facilities or off-trail travel by equestrians. Put differently, the public has virtually unrestricted

10. EIR Fails to Support Claim that OHVs Have Damaged Habitat for Quino Checkerspot Butterfly

6-19 On page 2-52, the EIR describes the general loss of habitat for the Quino Checkerspot Butterfly (QCB), and states that OHV use has contributed to this loss. Again, however, the EIR cites no data indicating that OHV use *in the ABDSP* has resulted in the loss of QCB habitat or its obligate plants. If data specific to ABDSP exist, the EIR should make a clear reference to it. If such data do not exist, the EIR should refrain from implying that vehicle-related impacts on QCB habitat are a problem at ABDSP.

11. EIR Fails to Substantiate Claim that OHVs Adversely Affect Flat-tailed Horned Lizards in ABDSP

6-20 According to the EIR, Flat-tailed horned lizards (“FTHLs”) have been observed at discreet locations within ABDSP, namely Borrego Badlands, Borrego Valley, and Carrizo Wash. (p. 2-53.) The EIR then goes on to say that OHV use is a known threat to the FTHL. Again, however, there is no data indicating the OHV use in ABDSP has adversely affected the FTHL populations in the Borrego Badlands, Borrego Valley, and Carrizo Wash. The EIR must be careful not to imply impacts where the data show none to exist.

12. The Plan and EIR Fail to Explain Need for Additional Wilderness Areas

6-21 As noted on page 2-92 of the Plan/EIR, 404,000 acres of the Park are designated as Wilderness, accounting for *two-thirds* of the total area of ABDSP. Nevertheless, DPR proposes to set aside an additional 57,800 acres of the Park as Wilderness. Nowhere does the Plan explain why the Will-ye-e and *Sin Nombre* Wilderness areas must be established at this time. For example, the Plan/EIR provides no data indicating that these areas are being damaged by human use or that their resource value will diminish if not reclassified as Wilderness. If such information exists, it should be set forth in the Plan/EIR. If it does not exist, one must question the public benefit of forever restricting visitor access to another 57,800 acres of park land.

13. The Plan and EIR Should Not Rely On the “Missing Links” Workshop

6-22 On page 2-94, the EIR identifies ten “Regional Plans” that in some way have shaped the development of the ABDSP Plan. Among those listed is a workshop entitled, “Missing Links: Restoring Connectivity to California Landscapes.” According to the EIR, the “Missing Links” workshop was sponsored by DPR, the USGS, the Nature Conservancy, the California Wilderness Coalition, and the Zoological Society of San Diego. The first problem here is that the Missing Links workshop is not a “Regional Plan.” By definition, a workshop does not qualify as a regional plan; they share none of the same characteristics. Further, regional plans are prepared *solely* by public agencies with land use jurisdiction over the area in question; they are not prepared jointly with private organizations such as the California Wilderness Coalition (CWC)

#6-21 cont. access to wilderness by foot. If a person cannot hike, they have access to wilderness by horseback through the existing trail system. Wilderness also does not exclude the potential for future trail development. If one cannot hike or ride a horse, they would have access to many edges of the Wilderness via the park road system. The Wilderness designations have been designed in such a way to create roughly 100 miles of dirt road bordering State Wilderness, which essentially allows for 100 miles of direct road access to State Wilderness. 2) Wilderness designations ensure the protection of the values that, according to the Visitor Survey, the majority of the public visiting ABDSP desires.

In this respect, the proposed Wilderness designations not only provide what a large segment of Californians want to experience, but the specifics of the designation allow for a variety of methods to access this important public resource (foot, horse, vehicle). The Wilderness Designations also allow for a high level of protection for the State's biological diversity, which, aside from the Mission of State Parks, is clearly stated by the Park's visitors as an essential purpose for the Park.

#6-22 Although not technically a regional plan per the definition submitted by the commenter, the Missing Links workshop summarizes valuable information from ecology specialists on ecological connectivity, a topic that is regional by nature and serves as a valuable resource for future planning efforts. The title in Section 2.3.3.1 will be revised in the Final General Plan to: Regional Plans & Planning Efforts.

#6-23 The Resource Inventory produced for the ABDSP General Plan/EIR documented at least 120 archaeological sites with evidence of vandalism (e.g., illegal excavation or "pothunting") caused by park visitors. That same document also identified at least 54 archaeological sites known to be traversed and degraded by roads and at least 40 archaeological sites being damaged by informal camping. Site recordation forms and technical reports resulting from archaeological investigations conducted in the late 1950s and early 1960s document evidence of unauthorized excavations ("pothunting") at many archaeological sites within ABDSP. Full documentation of damage to archaeological sites and measures to rehabilitate or protect the sites will be produced during work on the management plans that follow approval of the GP.

#6-24 On page 3-41 the General Plan further clarifies the intention of CSP by stating, "Recreation and preservation are not on opposite ends of the scale. At ABDSP, preservation is an integral part of a successful recreation program." For example, visitors recreate by driving, riding, hiking, horseback riding, and relaxing while enjoying the preserved scenery, quiet, wildlife, night skies, geology, plants, and history. The degree to which the values of the resources are maintained, even enhanced, has a direct relationship on the quality of the visitor's recreational experience. There is no denigration of recreation intended. Instead, the Plan raises the banner of recreation as one of the principal reasons for effective resource management.

#6-25 A critical component of California State Parks Mission is preservation of California's extraordinary biological resources. To satisfy this mission, special attention must be given to those species that are declining and appear to be tending toward extinction. CSP agrees that this is a difficult policy to deal with and it has the potential to pose many difficult management issues. However, it is not CSP's intention to skirt processes established by the regulatory agencies for listing endangered species but to protect, within the boundaries of ABDSP, declining species as trustees of the public's resources. The checks and balances that are part of the state and federal schemes are in place, in part, because listing a new species may place restrictions on privately owned property.

Please note that CSP is charged with the Mission to protect the State's biological diversity. As the commenter points out, a data intensive process must be followed for a species to be listed under either the California or Federal Endangered Species Acts. Such data collection requires a great deal of personnel and financial resources to be expended over a period of several years. Conversely, CSP resource ecologists and other biologists frequent the unique desert environments at ABDSP, continually compiling

and The Nature Conservancy (TNC). Moreover, regional plans in California are subject to environmental review and public comment under the California Environmental Quality Act (CEQA). Neither the Missing Links workshop, nor any document that came out of it, was ever vetted through the CEQA process.

6-22
(cont'd)

The second problem is that the Missing Links workshop is tainted by the controversy surrounding a letter CWC and TNC sent to then-Governor Davis in April 2001, asking him to support the restoration of wildlife corridors and linkages. In preparing that letter, CWC and TNC – without authorization – affixed the official seals of DPR and USGS to the letterhead, giving the false impression that these two agencies had formally approved the content of the letter, which they had not.

In short, DPR should not rely on anything related to the Missing Links workshop, and should refrain from describing it as a “regional plan,” which it most assuredly is not.

14. The EIR Fails to Support Claim that OHVs Damage Cultural Resources in ABDSP

6-23

According to the EIR, archaeological sites and other cultural resources are threatened by OHV activity, horseback riding, and a variety of other recreational activities at ABDSP. (p. 2-104.) However, the EIR does not identify a single site or incident where archaeological sites or cultural resources have been damaged by human activities.

15. Park Managers Should Not Define “High-Quality” Recreation

6-24

On page 3-3, the Plan/EIR indicates that there is a “potential tension between the charge to preserve resources and the charge to provide high-quality recreation.” To resolve this tension, DPR planners and managers perform an interesting sleight-of-hand by defining the term “high-quality recreation” in a way that forces public access to take a back seat to resource protection in every instance. According to the Plan/EIR, DPR managers “define ‘high-quality recreation’ as that which is *completely dependent on the ‘high quality’ of the natural and cultural resources of the Park.*” This is nonsense. Such a definition has nothing to do with the “quality” of recreation as experienced by the Park visitor. It simply subordinates all recreation to the resource conservation ideology of the Park managers. This approach does not “resolve” the tension between resource protection and the need for public recreation. Or rather, it resolves it by exalting the former and denigrating the latter. In so doing, DPR has lost sight of its mission.

16. No Authority for DPR to Treat Unlisted Species as “Listed”

6-25

In Biota Guideline 1b, the Plan states that “California State Parks will treat as a listed species, those that meet the criteria for listing, but are not yet listed.” (p. 3-23.) This policy is fraught with problems. First, we are aware of no state or federal statute or guideline that gives DPR (or any other agency) the authority to provide “unlisted” species the same protections

#6-25 cont. data and monitoring the Parks varied ecosystems. Because of this continual study and proactive management by park stewards, there is enough data to determine which species are threatened prior to listing by the California Department of Fish and Game or the US Fish & Wildlife Service. Protection of declining species would be in compliance with Section 3.3.1.1, Goal – Data 1. CSP has not only the authority but also the responsibility to conserve endangered and declining species to the best of our abilities. This guideline was not intended to reflect that CSP wishes to bypass or de-value the legal process in any way, but it was intended to clarify CSP’s commitment to the resources. The reference to the State and Federal policies will be removed in Guideline Biota 1b in the General Plan. The first sentence Biota 1b will read: *California State Parks will identify situations where native species are rare or rapidly declining and develop methods to protect such species and/or their habitats as stewards of the Parks resources.* The sentence “California State Parks will treat as a listed species, those that meet the criteria for listing, but are not yet listed” will be removed. The following sentence will read: *Proactive and protective treatment for rare and declining species will be incorporated into park stewardship and planning in accordance with CSP’s Mission and regional habitat conservation planning efforts.*

#6-26 The discussion on page 3-40 summarizes how CSP will assure that the overall number of visitors to ABDSP will never be such that natural and cultural resources are damaged or the visitors’ experience is compromised. The discussion does not dictate that overall visitation will reach capacity and will therefore require actual limits and restrictions. CSP must act in accordance with PRC 5001.96 and 5019.5 as stewards of the park resources and take the initial steps to establish carrying capacities appropriate to the level of resources and type of visitor use present at any given sites

6-25
(cont'd)

afforded “listed” species. Second, neither the California Endangered Species Act nor the Federal Endangered Species Act grants to DPR the right to determine whether a given “unlisted” species nevertheless meets the criteria for listing. Indeed, for a plant, animal, or insect to make it on the list of threatened or endangered species, a data-intensive process must be followed. During this process, the appropriate listing agency collects information, solicits comment from scientists in the field, and ultimately makes a listing determination based on the best available technical data. And even then, the determination is subject to challenge and judicial review. According to the ABDSP Plan, however, DPR would skirt all of these processes – processes that are intended to protect the integrity of the list and ensure that it contains only those species that truly need the full protection of the ESA and Cal ESA. What DPR has proposed violates the checks and balances built into the state and federal schemes, resulting in unnecessary restrictions on public use and a waste of management resources.

17. Plan and EIR Fail to Explain Need For, and Impacts of, Carrying Capacity Limits

6-26

At page 3-40, the Plan sets forth the goal of establishing a carrying capacity for ABDSP. However, the Plan does not explain why carrying capacity limits must be set for the Park or how such limits will affect public recreation. Note also that DPR has attempted in the past to establish carrying capacities at other State Parks (e.g., Oceano Dunes), and that these attempts have largely failed. The problem with carrying capacity limits is they are inherently undemocratic and have the practical effect of preventing members of the public from using public lands. DPR has provided insufficient evidence to suggest that ABDSP needs a visitor cap or any other kind of carrying capacity limit. Therefore, developing such a cap or limit should be deleted as a goal of the ABDSP Plan.

18. The Plan and EIR Fail to Provide Full, Accurate Picture of Coyote Canyon Issue

6-27

On pages 3-52 through 3-54, the Plan/EIR discusses Coyote Canyon – its history, its resources, and the challenges it poses for management. At one point, the Plan/EIR makes the following statement about Coyote Canyon Road and any future attempts to restore the 3.1 mile portion of it that was closed in 1995:

“Existing wilderness designations in Coyote Canyon effectively preclude the opportunity for relocation of the park road without a change in sub-unit classification, which must be approved by the State Parks and Recreation Commission. A portion of the 3.1-mile section closed to vehicles is adjacent to existing State Wilderness and the General Plan proposes additional State Wilderness to border the road throughout the majority of Coyote Canyon (See Figure 6.6).”

This statement is troubling both in its assumptions and in portent for the future. For example, it assumes that DPR had the legal right to close the 3.1-mile stretch of Coyote Canyon in 1995. The evidence suggests that this assumption may be incorrect. First, Coyote Canyon

#6-27 CSP respectfully disagrees. Please see Responses #6-10, 6-11, and 6-12. It is not the intention of CSP to permanently close additional sections of Coyote Canyon to vehicular activity. The section quoted in Section 3.3.2.3, was added to the General Plan to clarify the potential effects of both the existing and proposed State Wilderness on the ability to create a new road bypassing the 3.1-mile section of Middle Willows that was closed in 1996.

#6-28 CSP respectfully disagrees that the General Plan is fatally flawed or creates serious inequities. The General Plan process included numerous public meetings and stakeholder meetings. There are many comment letters in support of the General Plan's approval. Please refer to Responses #6-2 through #6-27.

6-27
(cont'd)

appears to satisfy the criteria for RS 2477 road status, and all protections pertaining thereto. The Plan even admits (at pages 3-53 and 3-54) that Coyote Canyon (and Creek) “served as a corridor of movement of people throughout time.” As an RS 2477 roadway, DPR had neither the right nor the power to close it. That is, the closure of the road was void *ab initio* and remains illegal to this day. Second, there is in this quoted paragraph the suggestion that DPR may close additional segments of Coyote Canyon Road as lands surrounding those segments are reclassified as wilderness. Put simply, DPR appears embarked on a campaign to eliminate the entire road by squeezing it between large Wilderness Areas which, by definition, do not allow vehicle use. Such an effort, were it to be undertaken in earnest, would violate RS 2477, as well as the applicable provisions of the California Streets and Highways Code.

Conclusion

6-28

For the reasons set forth above, we find the Plan/EIR defective and incomplete. The Plan, if implemented, will not allow ABDSP to meet the recreation needs of the public it is supposed to serve. It fails to strike the proper balance between resource protection and public access. It is hostile to many forms of recreation, including activities that are enjoyed by large numbers of families living in San Diego and Riverside Counties – families that look to ABDSP as their best and closest outlet for outdoor experiences. We recommend that DPR immediately withdraw the Plan/EIR and revise it to correct the deficiencies identified in this letter. When this is done, the document will be ready for recirculation and another round of public review and comment. Thank you for this opportunity to provide input on this important management plan.

Very truly yours,

David P. Hubbard

cc: Senator Bill Morrow
Ruth Coleman, Acting Director, State Parks
Jim Arbogast, CORVA
Michelle Casella, AMA-37
Pete Conaty, CLORV
Roy Denner, ORBA
Paul Grossberg, SDORC

#7-1 California State Parks (CSP) agrees that a General Plan is needed to protect and preserve the resources of ABDSP for present and future generations. The General Plan will allow appropriate facility development and direct park managers in resource preservation.

#7-2 CSP agrees that ABDSP is one of the crown jewels of the State Park system providing a critical refuge for endangered plant and wildlife and the site of diverse cultural and natural resources. During the public meetings, many members of the public expressed similar sentiments.

#7-3 Please see Response #7-1. Over five years of background studies and planning efforts have been undertaken in preparation of the ABDSP, in part because of the vast size of the Park and the complexity of the Parks resources, including recreation resources. CSP must implement management strategies to protect the Park's resources regardless of the alternative chosen. However, CSP agrees that adoption of Alternatives 1 or 2 would not allow implementation of management strategies consistent with the Park's purpose or provide the same level of protection for the Park's resources. CSP concurs that the Cultural and Natural Management Plans are high priority. As state funding opportunities allow, we will expeditiously pursue completion of these plans. It is possible that the completion of these plans will be done in phases to allow the most critical resources issues to be addressed sooner. As discussed in the General Plan, these planning efforts will be subject to CEQA compliance, and appropriate public review, as focused projects under the General Plan.



NATURAL RESOURCES DEFENSE COUNCIL

August 23, 2004

Environmental Coordinator
Southern Service Center
California Department of Parks and Recreation
8885 Rio San Diego Drive, Suite 270
San Diego, CA 92108

Re: Protecting and Preserving Anza Borrego Desert State Park

Dear Sir or Madam:

7-1 I am writing on behalf of NRDC – the Natural Resources Defense Council – regarding the draft General Management Plan for Anza Borrego Desert State Park. As you may already know, NRDC is a national, non-profit environmental advocacy organization with more than 550,000 members nationwide, approximately 125,000 of whom live in California. We have two offices in this state – one in San Francisco and one in southern California. And, we have a long history of supporting the state’s “special places,” including our state parks and Anza Borrego Desert State Park in particular. No park is more special than Anza Borrego. It is long past time that this park had a general management plan that would protect and preserve its remarkable resources for present and future generations to enjoy.

7-2 Anza-Borrego Desert State Park is one of the crown jewels of the California state park system and is renowned far beyond our state’s borders. California’s largest state park, Anza Borrego provides a critical refuge for endangered plant and wildlife species--including the majority of the state’s endangered peninsular bighorn sheep. Home to diverse historical and cultural resources, it is a place where visitors can obtain glimpses into the ancient past. And, its magnificent landscape of giant boulders, mesas, canyons, sand dunes, and famous groves of majestic native palm trees attract visitors from around the world. Like other NRDC members, I have personally visited Anza Borrego on numerous occasions and have first-hand knowledge of its unique and wonderful attributes.

7-3 As indicated, development of a general management plan for this incredible place is long over-due. The draft general plan that was recently released marks a significant step forward in remedying that lack. The product of years of study and significant public input, the draft plan reflects a genuine effort to accommodate the growth in visitation and visitor demands while fulfilling the park’s primary mission of protecting the natural and cultural resources that are its reason for being. The draft’s stated goals and guidelines represent a sound strategy for resource protection within the park as well as outside. Both the Preferred Alternative and Alternative 3 – the Environmentally Superior alternative – would provide significant protections for the park and its resources, including especially its wilderness resources. Both alternatives too call for designation of reserves, in acknowledgement of the importance of the park’s cultural resources and other natural values. The other options – Alternatives 1 and 2 – would allow for major harms to its sensitive resources.

California State Parks Response

California Department of Parks and Recreation

August 23, 2004

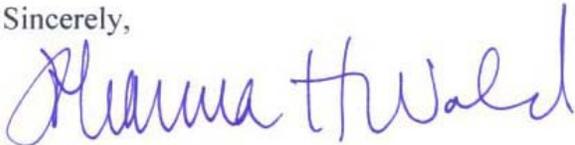
Page 2

7-3
(cont'd)

Because NRDC believes that it is imperative that a sound, protective and balanced general management plan for Anza Borrego be completed and implemented, we support both Alternative 3 and the Preferred Alternative. We urge that, if the Preferred Alternative is adopted, that its adoption be accompanied by a commitment to prepare Cultural and Natural Resources Management Plans immediately following approval in order to provide a baseline for other management plans. We oppose the other alternatives.

Thank you in advance for your consideration of our views and our thanks to the park staff who have worked so hard to develop plan worthy of Anza Borrego's outstanding resources and its unique place in California's state park system.

Sincerely,



Johanna H. Wald

Director, Land Program

#8-1 California State Parks (CSP) appreciates your support and agrees with your description of ABDSP. However, CSP respectfully disagrees that the Preferred Alternative would allow for significant resource damage to the Park's critical desert habitat. The Preferred Alternative incorporates elements from Alternative 3 within the individual Goals and Guidelines that protect resources throughout the Park. Please see Section 4.4.4 in the Preliminary GP/EIR.

#8-2 CSP agrees with these comments. However, CSP would like to clarify that the proposed new State Wilderness designations occur in areas that do not contain designated roads within the Park. The State Wilderness designation will allow additional protection of these areas should new roads or utility corridors be proposed and allow for closure of volunteer or non-designated roads and enforcement of vehicular encroachment.

August 30, 2004

Environmental Coordinator
Southern Service of California
Department of Parks and Recreation
8885 Rio San Diego Drive, #270
San Diego, CA 92108

RE: Anza-Borrego Desert State Park Preliminary Plan Comments

Dear Sir or Madam:

Defenders of Wildlife (“Defenders”) is pleased to provide these comments in regards to the Anza-Borrego Desert State Park (ABDSP) preliminary plan. Defenders of Wildlife is a non-profit, conservation organization with 475,000 members nationwide, 100,000 of which reside in California. Defenders is dedicated to protecting all wild animals and plants in their natural communities. To this end, Defenders employs science, public education and participation, media, legislative advocacy, litigation, and proactive on-the-ground solutions in order to impede the accelerating rate of extinction of species, associated loss of biological diversity, and habitat alteration and destruction.

8-1 Overall Defenders is in support of the ABDSP plan as it is a necessary measure for the sustainable ecological management of this state park. This California state park includes 600,000 acres and is the largest state park in the contiguous United States. In addition, this region contains 100 officially documented sensitive species of plants and animals and contains 26 of the 59 recognized wildlife habitats across California. Alternative 3, which is promoted in this preliminary plan, is ecologically more sound and protects more acreage of natural areas than the other alternatives. The other alternatives allow for significant resource damage to this critical desert habitat.

8-2 The proposed alternative designates an additional 55,797 acres for new wilderness areas as well as adding to existing wilderness areas (WAs). The new WAs contain 36,675 acres of the park, with Wil-ye Wilderness consisting of 29,482 acres, while Sin Nombre Wilderness will comprise 7,193 acres. Also, this management plan will add 19,122 acres to existing WAs.

According to the California Public Resources Code, a wilderness area is recognized as an area "where the earth and its community of life are untrammelled by man, where man himself is a visitor...retaining its primeval character and influence...protected and managed to preserve its natural conditions...." PRC §5093.33 (2004). Additionally, each state agency with jurisdiction over any area designated as a wilderness area shall be responsible for preserving the wilderness character of these areas and there shall be no use of motor vehicles (except in emergency situations within these areas)." PRC §5093.36 (a), (b) (2004). California’s definition of these wilderness areas was tailored

#8-3 CSP agrees with the importance of the resources in ABDSP and that it is a reasonable use of management to close areas subject to resource destruction by recreational activities. However, CSP will strive, according to Section 4.5.3.7, to replace recreational activities affected by such closures with other high quality outdoor recreational activities or with a similar type of activity in a different location. Thank you for the additional references on recreational uses and resource protection.

#8-4 CSP agrees that more critical habitat will help to ensure the survival of the Bighorn Sheep. The General Plan Goals and Guidelines and the Management Plans provide future park managers with the direction necessary to proactively manage for this species survival.

after the Wilderness Act of 1964, which Congress enacted to prevent the irreparable damage to these natural areas within the United States.

8-2
(cont'd)

In accordance with the intention of Congress to preserve these areas as well as the California PRC, motor vehicles and off road vehicles (ORVs) will not be allowed in these WAs since roads will be prohibited in these regions. However, activities are not eliminated entirely since more serene nature activities are encouraged including: horseback riding, hiking, backpacking and plant and wildlife viewing. Further, even though motorized vehicles and off road vehicles (ORVs) are not permitted in these locales, people can continue to traverse and park vehicles outside of these WAs along the border roads.

Also, the 9th Circuit Appellate Court found that the Forest Service (FS) had the right to prohibit ORV use in areas to protect natural resources. *Northwest Motorcycle Association v. U.S. Department of Agriculture*, 18 F.3d 1468, (9th Cir. 1994). When it was discovered that damage was caused by ORV use in the Glacier Wilderness Areas, the Forest Service prohibited this use. The court found that it was important to protect natural resources and the FS was justified in basing its closures on impending future damage as well as actual damage. *Id.* Following the court's reasoning, agencies retain the right to prevent damage to wilderness areas by prohibiting this type of damaging activity and this is deemed to be a reasonable use of management.

8-3

Additionally, motorized vehicles and ORVs across wildlife and nature areas have been shown to be detrimental to the plant and animal species that inhabit the surrounding regions. A vast number of sensitive species have been found to be adversely affected due to trails and roads running thru natural areas (Forman and Hersperger 1996). Whereas, highways and paved roads have less devastating impacts on species since they are located outside of the nature areas and animals will tend to inhabit more natural regions further from these highways and human activity. *Id.* Additionally, a final report submitted to the California Department of Fish and Game regarding how these activities affected California Species of Special Concern revealed that ORV impacts not only kill animals, but physiologically stress reptiles causing adverse effects (Jennings 1994).

The leading consideration is the impact ORVs will have on the 157 (100 officially documented) sensitive plants and animal species that reside in this desert. Also, this area contains federally threatened and endangered species including the peninsular bighorn sheep, among others.

8-4

The plan calls for identifying more critical habitat within this park for the bighorn sheep and will provide a necessary step in promoting the subsistence of this imperiled species. This species has been listed under the California State Endangered Species Act since 1971 and federally listed as endangered since 1998. According to Bighorn Institute, a California non-profit organization that strives for the survival of this species, only 400 of these animals remain in the wild. Habitat loss and fragmentation are recognized as the leading causes for this species decline. The U.S. Fish and Wildlife Service even

California State Parks Response

#8-5 CSP believes that the Preferred Alternative will provide adequate protection through the Management Zones and the implementation of the Goals and Guidelines in Sections 3.2.4 and 3.3 to the *We-nelsch* Cultural Preserve as well as the badlands, mud caves, and other geologic features of the Park. CSP also agrees that the *We-nelsch* Cultural Preserve will provide additional and necessary protection to a highly significant and culturally sensitive location. GP staff also sought comments from local Native Americans who are the most likely lineal descendants of the former occupants of this area of the park.

#8-6 Please see Response # 8-1.

Comment Letter 8 – Defenders of Wildlife

8-4 | acknowledged in its final endangered listing of this animal that roads and vehicular
(cont'd) | recreation have contributed to the decline of this animal.

8-5 | Other important resource areas will be enhanced by this proposed plan as well.
Acreage has been designated for the We-nelsch Cultural Preserve (428 acres), which is
important because it contains historical remnants of the Kumeyaay Native American
village that was occupied until the early 20th century. Further, levels of protection will be
increased for the badlands, mud caves and other geological gems within this park.

8-6 | Moreover, Defenders supports this alternative because it is more ecologically sound than
the other alternatives. This preliminary plan designates additional acreages for
wilderness areas within this park, enhances other resource areas and maintains a goal to
base actions on sound scientific data. Protection of these natural areas is a necessary
measure to allow for the continued existence of the peninsular bighorn sheep as well as
the other plant and animal species that inhabit the ABDSP.

Sincerely,

Sharma Hammond
Intern
Defenders of Wildlife
926 J Street, Suite 522
Sacramento, CA 95814

Forman, R.T.T., and A.M. Hersperger. 1996. Road ecology and road density in different landscapes, with international planning and mitigation solutions. In Trends in addressing transportation related wildlife mortality, edited by G.L. Evink, P. Garrett, D. Zeigler, and J. Berry, 1-22. Publication Fl-ER-58-96. Tallahassee: Florida Department of Transportation.

Jennings, Mark R., et. al. 1994. Amphibian and Reptile Species of Special Concern in California. California Academy of Sciences, Herpetology Department. Final Report Submitted to California Department of Fish and Game.